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THE
CONSTITUTION OF THE ISLE OF MAN,
CONSISTING OF
PART THE THIRD
OF THE
REPORT OF THE
COMMISSIONERS OF INQUIRY
FOR THE
ISLE OF MAN,
MADE IN THE YEAR 1792,
WITH THE APPENDIX C. ANNEXED TO PART III.
OF THE REPORT,
AND A
FEW OTHER DOCUMENTS SELECTED FROM THE OTHER APPENDICES.

EDITED BY
RICHARD SHERWOOD, Esq., ADVOCATE,
MEMBER OF THE HOUSE OF KEYS.

DOUGLAS, ISLE OF MAN :
PRINTED FOR THE MANX SOCIETY,
MDCCLXXXII.

CORRECTIONS.

In the eleventh line of Note 5, in page 19, supply "by" after "should be adopted."

In Note 6, page 19, after "the privileges named," insert "except the election of their Speaker."

In Note 61, page 136, for "Charles I." read "Charles II."

ADDITION.

Note to Appendix C., No. 38.—The question of the right of the Speaker of the Keys to give a casting vote in Tynwald arose there on the 8th Oct., 1863. The Keys having retired to discuss the matter, decided that "to pass any resolution affecting the public, binding on the House, it is necessary that a majority of the House, namely *thirteen members*, vote in favour of the passing of such resolution."

The question arose again on the 5th May, 1880, when, after a full discussion, the following resolution was passed by them:—"The House of Keys having taken into consideration a message from his Excellency upon the question of the right of the Speaker, upon a division of the Keys in the Tynwald Court, to give a casting vote, resolved that, whilst not accepting the message of his Excellency as accurately defining his position of President of the Tynwald Court with respect to the Keys sitting therein and their Speaker, the House is of opinion that the Speaker, upon a division in the Tynwald Court, is not entitled to a casting vote."

C O N T E N T S.

	PAGE
Commissioners' Report, Part III....	1- 61
List of Documents in Appendix C.	65- 69
Appendix C.	70-263
Appendix A.	267-269
Appendix B.	273-286
Appendix D.	287
Editor's Appendix ...	293-318
1. Sir James Gell's Memorandum on Manx Ecclesiastical Legislation ...	293
2. Act of 33 Henry VIII., c. 31 ...	300



EDITOR'S PREFACE.

IN September, 1791, the British Government issued a Commission for the purpose of investigating and reporting upon certain claims made by the Duke of Atholl, respecting the sovereign and manorial rights which had belonged to his family in the Island, and of inquiring into its legal system and constitution.

The Commissioners were Mr. Spranger, Master in Chancery; Mr. Grant (afterwards Sir Wm. Grant, Master of the Rolls), Barrister-at-law, and Member of Parliament; Mr. Osgoode, also a Barrister, and Chief Judge of Quebec; Mr. Roe, Commissioner of Customs at London; and Mr. Reid, Commissioner of Customs at Edinburgh.

The instructions to the Commissioners were contained in the following letter to them from Mr. Secretary Dundas:—

WHITEHALL, 8TH SEPTEMBER, 1791.

Gentlemen,—

His Majesty being desirous of obtaining the most accurate information upon various points respecting the Isle of Man, it is his Majesty's pleasure that, with your first convenience, you should proceed to the Island, and that, after full inquiry, you should report to me, for his Majesty's information, upon the state and condition of that Island, from the materials which will be laid before you, and from such others as may occur to yourselves to call for in the progress of your inquiry. It has been alledged by the Duke of Atholl, that the revenues arising to his Grace's family were not fairly collected, even prior to the revestment; that his family had the power of increasing the duties with the consent of the Legislature; and that that consent, to any reasonable degree, would not have been wanting. He alledges, that some rights unnecessary to be vested in the Crown, for the purpose of preventing illicit practices, have been so vested, while others, meant to be retained, have, by the operation of the Act of 1765, been rendered nugatory by being left in a mutilated and unprotected condition, the protections which they enjoyed under the former Government of the Island having been destroyed, and no new or adequate protection substituted in their room.

If this last allegation should be proved, it is, no doubt, the duty of Government to give their aid and concurrence for removing the grounds of that complaint; but, it has been stated by some of the inhabitants of the Island, not only that these grievances were exaggerated, but that the remedies which the Duke of Atholl had at any time suggested were incompatible with the quiet and secure enjoyment of the rights and possessions immemorially held by them, and which are equally entitled to the attentive consideration of Government. It is

recommended to you, carefully to investigate this subject, and to suggest such observations as may occur to you, with a view of ascertaining the interests of those parties, and placing the rights of both, in time to come, upon a secure and permanent footing. *I think it right, however, to apprise you, that in this part of your inquiry you are to proceed on the ground, that the rights and tenures of the Islanders, as established in 1703 and 1704, are inviolable; this has been admitted on the part of the Duke of Atholl, and care should be taken that nothing be brought forward, in the course of your inquiry, to raise a doubt upon that subject.* It having been represented, that notwithstanding the laws now in force for the prevention of illicit practices in the Isle of Man such practices do still exist; you are to take that subject into your serious consideration, and receive any propositions, or suggest any remedies, which may appear to you to be fit or proper to be adopted for the counteracting of such practices, or be conducive to the improvement of the revenue of Great Britain or Ireland. It has been suggested, that the revenue of the Isle of Man is not nearly so productive as it ought to be; you will take proper pains to ascertain the truth of that allegation, and, if true, whether it arises from the duties not being duly collected, or from any error in the system by which the different duties have been laid on. Upon this branch of your inquiry you will of course examine into the expenses of the collection, and the nature of the establishments existing for that purpose.

It has been very confidently stated, that the industry, population, and trade of the Island is unnecessarily cramped by some of the regulations and restrictions which have been imposed, under an idea that these regulations and restrictions were necessary for the prevention of frauds, and the protection of the revenues of Great Britain and Ireland. It must be the care of Government to resist any propositions which tend materially to injure the fair collection of the revenues of Great Britain and Ireland; and with that view you will attentively weigh every proposition having such a tendency: But if any suggestions are laid before you with a view of contributing, in any degree, to promote the prosperity of the Isle of Man, or the happiness of its inhabitants, and not incompatible with the security of the revenues of Great Britain and Ireland, you will give an attentive consideration to those suggestions, and report your opinion upon them.

Representations have been frequently made by the Duke of Atholl, that laws were passed by the Legislature of the Isle of Man materially affecting his property, without his having any means whatever of knowing the nature of those laws; and upon that ground caveats have been entered by him against his Majesty's assent being given to those enactments. Complaints, on the other hand, have been made on the part of the Keys, that in consequence of those interruptions, very inconvenient delays are created, and regulations for the internal Government of the Island prevented. This will form an important branch of your inquiry, with a view to which you will take due pains to inform yourselves of the ancient constitution of the Island, the nature and functions of its Legislature, the courts of civil and criminal jurisdiction, the nature of its magistrates and police, together with its revenues, and mode of collection; and you will report what variations those different institutions have recently undergone, and in particular, how far the duties of them have been altered, or suspended, by the operation of the Act of 1765, before mentioned. I do not propose to be more minute in the instructions by which you are to regulate your inquiry. It is my intention only to state to you the general objects of it, and you will consider these instructions in the light of general directions for your conduct, and in the prosecution of your inquiry you will omit no object which may suggest itself to your observation, as tending to throw light either on the former or present state of the Isle of Man. The annexed papers, No. 1, 2, 3, and 4, will point out to you the channels by which you are likely to receive information as to the objects of your inquiry; and as you may find it necessary to employ a person to assist you in the capacity of secretary, you are at liberty to fix upon such a person to accompany you in that character as you may conceive to be properly qualified to execute the duties of that station.

I am, &c.,

(Signed)

HENRY DUNDAS.

To the Commissioners of Inquiry, Isle of Man.

In their report, dated the 21st of April, 1792, the Commissioners state that they had proceeded to the Island, and had arrived there on the 21st September preceding. On the second day after their arrival, Lieut.-Governor Shaw convened the two branches of the Insular Legislature at Castle Rushen, for the purpose of receiving them. They attended this meeting, at which the Duke of Atholl was also present. The Commissioners having read their instructions, and explained the course which they intended to pursue, the Keys retired to their own house, and appointed a committee to attend the inquiry; and this committee did accordingly continue their attendance.

From the materials collected on the Island, and others received by them after their departure, the Commissioners framed their report, and in doing so, divided it into four general heads, under the several titles of—

- 1st. The allegations of the Duke of Atholl.
- 2nd. The Revenue.
- 3rd. The Constitution of the Island; and
- 4th. Suggestions for the benefit of the Island.

To each of these heads they annexed an appendix of examinations and documents referable to it.

The report of the Commissioners under the two first-named titles contains an immense amount of information respecting the claims and rights of the Dukes of Atholl as Lords of the Island, and respecting its customs system and revenue. As the matters in dispute between the Crown and the Duke were subsequently arranged with the Atholl family, and as the customs and revenue of the Island are now based on legislation passed subsequently to the report, these two items are now interesting chiefly as information for the historian. The portion of the report under the head of "The Constitution" is still exceedingly valuable, and contains more reliable information on that subject than any other document which has hitherto been compiled respecting the Island. A slight examination will, however, show that many changes have been made by recent legislation, but a considerable portion of the report remains still applicable to our constitution and legislature.

The report has always been held in high estimation as an authority. On being referred to in a case heard by the

Judicial Committee of the Privy Council on appeal from the Island,* their Lordships said:—"We look upon this report "as of very great authority. Learned and able persons were "members of the Commission—one, Sir William Grant, will "always be remembered as one of the most cautious, candid, "and well-reasoning lawyers of his own—perhaps of any—"age."

I have ventured to add some notes to the work referring to these changes, and to elucidate questions which have arisen respecting points left doubtful in the text.

The report may be said to be almost out of print, there being now only a few copies in existence in the Island. It is too voluminous to reprint in its entirety. My opinion of the value of the work has induced me to suggest to the Committee of the Manx Publication Society the advisability of preserving the most valuable portions of it, by reprinting the constitutional part of the work forming "Part the Third," with the documents referred to in it collected in the Appendix C. annexed to the report.

These, along with a few other papers selected from the other appendices, are the portions which are contained in the following volume.

Douglas, 1st February, 1881.



THE CONSTITUTION OF THE ISLE OF MAN.



ALTHOUGH the resolution of the House of Keys, stated in a former part of our Report, and the subsequent conduct of the Duke of Atholl, and the Committee of the Keys thereupon, appeared to us considerably to lessen the necessity of those inquiries we were instructed to make “into the ancient constitution of the Island, the nature and functions of its legislature, the courts of civil and criminal jurisdiction, and the nature of its magistrates and police, and to report what variations those different institutions have recently undergone; and in particular, how far the duties of them have been altered or suspended by the operation of the Act of 1765;” yet we considered it our duty to pursue these inquiries, as far as we had opportunity; and shall proceed to state the substance of the information we received thereon.

An attempt to trace out, and give a satisfactory account of the constitution of the Isle of Man, from any very remote period of time, would, we apprehend, be fruitless for want of authentic documents and records.

Our inquiries were principally directed, and our Report will chiefly relate, to the Constitution of the Island, that subsisted at, and for some time previous to the Revesting Act, and the alterations that have taken place therein subsequent to the year 1765.

The information we have received on these points, exclusively of that which the Manks Statute Book affords, has been furnished by his Majesty’s Lieutenant-Governor of the Island, the Deemster, his Majesty’s Attorney-General, the

Appendix,
(C.)
No. 1, 2, 3.
4, 5, 6, 7, 8.

Clerk of the Rolls, and the Speaker of the House of Keys, who have all long resided, and been in office upon the Isle of Man, except the Lieutenant-Governor; and their accounts and depositions are annexed in the Appendix.

From thence it appears, that previous to the grant of this Island to the Stanley family in the year 1406, it had been subject to different Governments, though usually subsisting as a petty kingdom, to which the dominion of some of the Hebrides was once annexed, and was successively tributary to, or united with, Denmark, Norway, Scotland, and England.

The most ancient records extant in the Island are those of the laws and ordinances, that have, from time to time, been enacted there, and commence in the year 1417.

Appendix
(C.)
No. 9.

The first of these is an Act passed by the authority of Commissioners appointed by the Lord of the Island and the twenty-four Keys, to prevent some abuses of the places of refuge at that time afforded to criminals by some ecclesiastics upon the Island.

The Manks Statute Book commences in the year 1422, and contains, according to its title, a "Collection of divers "Ordinances, Statutes, and Customs presented, reputed, and "used for Laws in the Isle of Man."

King Henry the Fourth, by letters patent under the Great Seal of England, in the seventh year of his reign, granted to Sir John de Stanley, his heirs and assigns, the Island, Castle Pele, and Lordship of Man, and all the islands and lordships, royalties, regalities, and appurtenances thereto appertaining, together with the patronage of the bishoprick of the said Isle, and of all ecclesiastical benefices whatsoever to the said islands, Castle Pele, and lordship belonging, in as full and ample manner as they had been possessed by any of the former lords or kings of Man, to be holden by homage, and the service of rendering two falcons to his Majesty, and the like

acknowledgments to every one of his successors at their coronations.

By virtue of the before-mentioned and other letters patent, in the seventh year of the reign of King James the First, the Isle of Man, and the hereditaments comprised in these grants, have been held by the descendants of Sir John de Stanley, as a fief separately from the Kingdom but dependant on the Crown of England, from the year 1406 to the time of the revestment, with some little interruption that took place in the latter end of the reign of Queen Elizabeth, upon the failure of the issue male of Ferdinando, then Earl of Derby.

From the time of the grant of King Henry the Fourth, the Island has been governed by its own laws; and whatever was the more ancient form thereof, the constitution of the Island, during the time it was thus held by the Stanley family, by degrees assumed that shape in which it is represented to have subsisted, at least from the beginning of the present century to the year 1765, and which we are now proceeding more particularly to describe.

We shall first take notice of the Legislative, and then of the Executive and Judicial Branches of the Constitution of the Island.

The laws and ordinances that were enacted in the Island during the fifteenth and sixteenth centuries, appear by the Manks Statute Book, to have been prescribed by such different powers, or combinations of power, that as precedents of the exercise of Legislative authority, they can have but little weight.

Subsequent to this period was established the more regular mode of legislation, which subsisted at the time of the revestment; and from the beginning of the last century, with few exceptions (in which the commands of the Lord Proprietor have been obtruded as laws on the people), the legislative

authority of the country has been vested in the Lord Proprietor, the Governor and Council, and the Twenty-four Keys.

When these three estates, or the two latter of them, were assembled, they were called the Tynwald Court; and by the joint concurrence of these three branches of the Legislative power of the Island, the laws which governed its inhabitants were enacted.

The Lords Proprietors deriving their authority under the before-mentioned grants, possessed the prerogatives, and had, for a considerable length of time, the title of royalty. They had the sovereign control of government in every instance, under such restrictions as were from time to time introduced.

With respect to the persons who composed, and had a right to a seat and voice in that Council, which, together with the Governor, formed the second branch of the Legislative power in the Island, various opinions have been offered; and as this is a question now in controversy, we shall state all the information we have been able to collect upon the subject.

The Deemster represents this Council to have consisted of the following superior lay and spiritual officers of the Lord Proprietor, viz.:—The Treasurer or Receiver-General, the Comptroller, Clerk of the Rolls, Water-Bailiff, Attorney-General, two Deemsters; Bishop, Archdeacon, his Official, and the two Vicars-General of the Bishop. The Clerk of the Rolls concurs in the foregoing description of this Council, as far as relates to the before-named lay officers, adding thereto the Collectors; but considers the Bishop and other ecclesiastical officers, only entitled to attend this Council when summoned by the Governor.

The Attorney-General differs, in some measure, from each of these opinions; for, though he considers some spiritual officers to have had a fixed seat in this Council, he does not allow that all those enumerated by the Deemster were entitled

to that privilege. He further confines the right of a seat in this Council to such lay officers as composed the lord's household, and acted in his ministerial departments. He thereby excludes the Collectors, and doubts the propriety of ranking the Deemsters as members of this Council; although he admits they appear never to have been absent from the meetings of the Legislature: So that, according to his account, this Council consisted of the Receiver-General or Treasurer, the Comptroller, Clerk of the Rolls, Water-Bailiff or Collector, the Attorney-General, and probably the Bishop and Archdeacon as stated, and the Vicars-General and Official as occasional members.¹

The claims of some of the before-named spiritual officers to a seat in this Council at the time of the revestment, is moreover supported by instances of the enjoyment of that privilege for a series of years prior to that period. These instances are to be found in the Manks Statute Book, which, from the beginning of the sixteenth century, generally records the names of the members of the Legislature who signed the laws enacted in the Island, either in their passage to the Lord Proprietor for his assent, or at the promulgation thereof afterwards; which signatures are admitted to be proofs of the exercise of Acts of Legislation.

From this authority it appears, that from the year 1637 to the year 1742, the Bishop, his Archdeacon, and sometimes one and at other times both the Vicars-General, subscribed their names to Bills that had received or were prepared for the assent of the Lord Proprietor; but no instance has been pointed out to us, of the like signature of the Archdeacon's Official.

¹ At present the Bishop, Archdeacon, and Vicar-General are always recognised as members, but the Archdeacon's Official has never sat as a member of the Council within living memory.

Appendix, ^(C.) **No. 10.** A particular enumeration of these Bills that were so signed, and of the ecclesiastics who added their signatures thereto, was delivered to us by the present Lord Bishop of the Island, and is stated in the Appendix.

We shall only add, that these Bills are, with few exceptions, Acts of general concern to the inhabitants of the Island, and by no means confined to, or connected with, ecclesiastical affairs.

The duty of this Council was to assemble, when called upon by the Lord Proprietor or his Governor, and give their assent or dissent to the laws proposed to be enacted.

The Keys, who constituted the third branch of the Legislative power of the Isle of Man, consisted of twenty-four of the principal commoners, and, as they were anciently styled, “the worthiest men in the land.”

The Keys were in remote times called Taxiaxe, and have clearly existed in the Island for many centuries.

In a declaration of the laws of the Island to Sir John Stanley, at Castle Rushen, in the year 1422, the Deemsters and Twenty-four Keys “gave for law, that there was never “Twenty-four Keys in certainty since they were first that “were called Taxiaxe ; those were Twenty-four Freeholders, “namely, eight in the Out Isles, sixteen in the Island of “Man ; and that was in King Orrye’s days ; but since they “have not been in certainty : But if a strange point had “come, the which the Lieutenant will have reserved to the “Tynwald twice a year ; and by leave of the Lieutenant, the “Deemsters there to call, of the best of his Council in that “point as he thinketh to give judgment by ; and without the “Lord’s will, none of the Twenty-four Keys to be.”

Hence it may be collected, that the number of the Keys was, for some time at least, uncertain.

At what particular period, after the severance of the Isle of Man from the Outer or Western Isles, the Twenty-four Keys were all chosen in the Isle, is not ascertained; nor do we know more of the original manner of their election, than what appears from the before-mentioned declaration of law in the year 1422.

Although the time when, and the manner in which the Keys were first elected, is uncertain,² we find from one of the before-mentioned records, that in the year 1417, Twenty-four Keys concurred with the Lord Proprietor's Commissioners in a public Act: And from this early period at least to the time of the revestment, their number has continued the same; and for an indefinite length of time prior to the year 1765, they have been elected in the following manner:—

When a vacancy in the House of Keys was to be filled up, the Keys proceeded to the election and nomination of two persons to be presented to the Governor by their Speaker, as eligible thereto.³ The Governor having made choice of one of

² That the Keys were elected by the people in ancient times appears from a document recorded in the *Insular Liber Cancellarii*, 1581. A commission having been directed by the Earl of Derby, the then lord of the Island, to the officers spiritual and temporal, and the twenty-four Keys, on their proceeding under the commission Bishop Merick objected "that if the twenty-four and the rest be called together for the establishing of a law to stand in force and bind his successors and the whole country, and not to decide a controversy, then he is of opinion that the twenty-four should be elected by the whole consent of the country, viz., of every sheading a number to say for and represent the rest." The record further states that "William Christian and Hugh Holland, Archdeacon, made challenge as well to some of the spirituality as to part of the twenty-four Elders," and that "the twenty-four say that for establishing a law the country ought to give its consent for the choosing of the said twenty-four, &c., and so the commission is stayed till his lordship's pleasure be known."

³ The mode of election described in the text existed up to the passing of "The House of Keys Election Act, 1866." Under that Act the members are elected by the voters of the sheadings and towns; each of the six sheadings electing three, the town of Douglas three, and the towns of Castletown, Peel, and Ramsey one each. The House is elected for seven years, unless sooner dissolved by the Governor, who has power to do so whenever he may deem it expedient.

Under "The House of Keys Election Act, 1881," the qualification of a voter is the ownership or tenancy of real estate of £4 a year rateable value, or the occupation as a lodger of premises of the annual value of £10. Under the ownership qualification unmarried women are admitted as voters. The Keys proposed to extend the tenancy qualification to females also, but the Council objecting to it, the Keys were compelled to accept the compromise made by the

Appendix, (C.)
No. 11.

those persons, directed the Clerk of the Rolls to administer to him the oath in the Appendix ; and thereupon he became a Key, and was entitled to hold that office for life ; unless he chose to resign, and the Governor accepted such resignation ; or became disqualified, by expulsion by the House of Keys, or by the acceptance of the Lord Proprietor's appointment to any office that entitled him to a seat in the Governor's Council, or of the office of Deemster.

What would have been the proceeding, if the Governor had refused both the persons presented to him for his election to supply a vacancy in the House of Keys, does not appear ; nor did we learn, that there was any fixed time for declaring or filling up the vacancies in that House ; but it is said, this was generally done at the next meeting of that assembly.

In case the Keys did not all concur in the nomination of two persons eligible to be a member of their House, their Speaker, at the time fixed for filling up the vacancy therein, collected from each of the members then present, the name of the person he wished to appoint ; and having so done, declared the names of the two persons in whose favour the majority of the Keys then present had thus decided, and presented the same to the Governor, for his selection of one of them.

It seems agreed, that no person was capable of being elected a Key until he was twenty-one years of age ; but what other qualifications were necessary to entitle him to enjoy that office, appear by no means settled, nor could we find that this question had been ever decided.

That some real property was necessary, was admitted, and may be collected from the declaration of the law in the year 1422, where the first Keys are said to have been freeholders.

Act as it stands, in order to obtain an admission of the principle of the right of women to vote, but in doing so recorded their protest against their partial exclusion. This Act is said to be the only law now existing in Europe recognizing the right of women to vote in the election of the members of a legislative body.

In the year 1719 it was settled, that an estate of inheritance in one of the several well-known portions of ancient inclosed land in the Island, which are there called quarter lands ; or of intacks, or modern inclosures, of the annual value of three pounds, in the judgment of the Deemsters and Twenty-four Keys, naturalized any person, and entitled him to all the privileges of a native.

Upon this ground, some are of opinion, that a Key must at least have such real property as is sufficient to naturalize an alien ; but as this question has never yet received any solemn determination, the foregoing opinion, however plausible, is not by any means conclusive, and is not universally acquiesced in.⁴

Non-residence in the Island is clearly held to be no disqualification.

The House of Keys thus elected, when called on by the Lord Proprietor or his Governor, met in their Legislative capacity, to debate upon, and approve or reject, any law proposed to them.

The meetings of the Keys in this capacity were as frequent as the Governor thought proper to appoint ; and when the business of the session was concluded, their Speaker waited upon, and made a written return of their proceedings to the Governor ; and if he had no further occasion for their attendance, their Speaker adjourned the House.

During the session, the power of the House of Keys to adjourn at pleasure, to appoint committees to transact any business and report to the House, appears acknowledged ; but their ability to continue their session during their pleasure, and the Governor's authority to prorogue them before they

⁴ The qualification of a member now (February, 1881), is the ownership of real estate of the rateable value of £100 a year ; or of real estate of £50 a year, together with personal estate actually producing an income of £100 a year ; or the ownership of personal estate actually producing an income of £150 a year.

chose to separate, is not clearly agreed upon.⁵ Instances, in

⁵ The ancient powers, rights, and privileges of the House of Keys are preserved by section 120 of "The House of Keys Election Act, 1866," which enacts: "Nothing in this Act contained shall affect, or in any manner be construed to affect, the inherent powers heretofore exercised by the House of Keys as a legislative body; and after the promulgation hereof the House of Keys, and the several members thereof for the time being, and persons to be elected to be members thereof, as directed by this Act, shall from time to time and at all times have, exercise, and perform the same power, authority, and duties, and be subject to the like obligations (save and except where the same are expressly altered by this Act), and be entitled to and enjoy the same rights and privileges, in as full and ample a manner as the House of Keys and the several members thereof for the time being, and persons selected to be members thereof heretofore had, exercised, and performed, and was or were entitled to and enjoyed."

Prior to the final purchase of the rights of the Atholl family in the Island, disputes existed for a number of years between the Keys and the Duke. The Keys not being able legally to assemble to form a House, unless convened by the Governor's precept, and the members of that day knowing that if they once separated without keeping their sitting alive by an adjournment, they would probably not be convened again, and would, therefore, be powerless to take any action, as a House, in the important public matters then pending, exercised their power of keeping the House in session by adjourning from time to time, and place to place, for several years.

By custom also a summons of the Keys to meet the Council in Tynwald authorizes them, without any further summons, to sit separately and transact any business before the House. This power is exercised in fact almost every year at the Midsummer Tynwald Court at St. John's. The Keys are summoned there to attend the Tynwald Court, and they frequently under that summons sit separately as a House of Keys, and transact their own business, both before and after they sit in Tynwald. Although the Governor in his precept summoning the Keys sometimes states particular business, they are not confined to the special matters, but may undertake any kind of business.

The Keys have the right also whenever any business is before the Tynwald Court, to adjourn from the Court to discuss the business separately in their own house, and then to return to the Tynwald Court. This right they claim to exercise at any stage of the proceedings. It has been exercised on several occasions since "The House of Keys Election Act, 1866," and has invariably been acted upon by the House upon the motion of a single member, without being seconded or put to the House or the Court. To secure this right of separate discussion, the Keys, in 1867, laid down certain standing orders regulating their proceedings in Tynwald.

Order 43 lays down:—"The Keys shall not sign or pass any law, ordinance, or other Act or Acts whatsoever, which they have not previously had an opportunity of debating upon, separate from the rest of the Legislative body."

Order 44:—"Whenever any such law, ordinance, or other Act, is proposed by any person or persons whatsoever, the Speaker, for the time being, shall *ex officio* (without any other or further directions from the Keys) acquaint the proposer or proposers of such law or ordinance, that such method of procedure is contrary to the rules of the House of Keys, and subversive of the right of free debate which that House ought to enjoy, and shall desire to have an opportunity of debating with the rest of the Keys, separate, and apart from, the Governor, Council, and Deemsters upon the matters proposed. And when any resolution is proposed in the Tynwald Court, it shall be competent for any member of the Keys to require the same to be debated in their own House, before a decision is come to by the House thereon."

It must, however, be noted that these standing orders of 1867 were not *then*, for the first time, laid down for adoption by the Keys.

They were a revision and codification of *ancient* orders and rules of the House, some of them extending back to the early part of the last century.

the years 1750 and 1754, have been referred to, of the

In the year named (1867), they were first printed and published.

The last previous revision and classification of the standing orders of the old House, was in 1816, and these were acted upon up to the dissolution of the House in 1867.

In order that the members should bear them in mind, whenever the Keys met for business, the standing orders and rules of the House, as well as the oath administered to the Keys, were read by the Secretary, before any business was proceeded with.

The two orders, 43 and 44, are, with a very slight alteration in the latter, a mere transcript of the ancient rules bearing upon the subject, which are as follows :—

No. 16.—“That the Keys shall not sign or pass any law, ordinance, or any other Act or Acts whatsoever, which they have not previously had an opportunity of debating upon separate from the rest of the Legislative body.”

No. 17.—“That whenever any such law, ordinance, or other Act is proposed by any persons whatsoever, the Speaker, for the time being, shall *ex officio* (without any other or further directions from the Keys), acquaint the proposer or proposers of such law or ordinance, that such method of procedure is contrary to the rules of the House of Keys, and subversive of right of free debate which that House ought to enjoy, and shall desire to have an opportunity of debating with the rest of the Keys, separate, and apart from the Governor, Council, and Deemsters upon the matters proposed.”

Frequently when the Keys are in session they are requested by the Governor to attend a Tynwald Court, and although not summoned for that purpose, they, on attending, can, with the Council, form a legally assembled Court. On the 3rd December, 1879, the Governor required the Keys, who were sitting in Douglas, to attend a Tynwald Court, which he informed them he intended to hold that day, and demanded their attendance as a right. The Keys resolved unanimously that the Governor did not possess the right to compel them to attend a Tynwald Court in the absence of a summons under precept, and informed his Excellency that they declined, under the circumstances, to meet in Tynwald.

The Keys were summoned for the ensuing 8th December, and on their assembling in their House a printed message from the Governor contesting their right to refuse attendance at the Tynwald, was laid before them. Before it was discussed a second message was received from the Governor and Council requesting a conference upon the subjects referred to in the Governor's message, before they should come to any determination upon it. To this the Keys replied that they considered “it would be improper to make any question involving any rights or privileges of the House the subject of a conference with the Council, the Keys claiming to be the sole judges of their own privileges,” and they resolved to defer their reply to the message until the 14th January, 1880.

On that day they forwarded their reply, and as various points of privilege are discussed in it, and as the reply was unanimously approved of by all the members, numbering amongst them several who had been members for upwards of thirty years, and were well versed in the traditions and usages of the House, the Editor considers it of sufficient importance to give it *in extenso* :—

“House of Keys, 14th January, 1880.

“On the 8th December last the Keys received a message from his Excellency the Lieut.-Governor, to which, as several important questions were involved in it, they deemed it advisable to defer giving a reply until they would meet by adjournment on this day ; and they intimated such their determination to his Excellency.

“A brief recapitulation of the circumstances under which the present, much to be regretted discussion had arisen, may not be out of place.

Governor's having compelled the Keys, when assembled, to

"On the 20th November, 1879, the Keys met for the despatch of business, and at the close of the day adjourned until Tuesday, the 25th of that month, when they again sat.

"A Tynwald Court having been appointed for Wednesday, the 26th November, the Keys were in attendance, but on account of the illness of a member who had given notice of a motion to the Court, the discussion upon which it was expected would occupy the entire day, no Court was held, and consequently no adjournment took place.

"An intimation having, however, been given to the House that the Tynwald Court would be held on the following day, the Keys adjourned their sitting until that day (the 27th.)

"On Thursday, the 27th November, after a delay of about two hours, during which time the Keys were kept waiting the arrival of the Lieutenant-Governor and Council, a Tynwald Court was held, and which continued until late in the afternoon.

"Prior to the Lieutenant-Governor and Council leaving the Court on that day, as stated in his Excellency's message, he did express a wish that the House should adjourn until some early day to proceed with the business before them, and he did suggest that they should meet in the following week, excepting, however, on the Thursday and Friday in that week, as those days would be occupied by the Chancery Court.

"The business to which the attention of the House was especially directed was the consideration and discussion of the "Public Health Bill," which, it may be noted, had only been read a first time two days previously, namely, on the 25th November.

"As this Bill, from its magnitude and importance, would necessary call for an extended sitting, and as several of the members of the House had made arrangements which would prevent their attendance on an early day, and as it was considered that further time should be afforded to enable the public to be made acquainted with a measure which would so materially affect them, the Keys determined to adjourn until Wednesday, the 14th January, 1880. The Speaker thereupon formally adjourned the House until that day, and appointed a deputation, consisting of the hon. and learned member for Glanfaba (Mr. Sherwood), and the Secretary, to report progress to his Excellency.

"In waiting upon the Lieutenant-Governor, the Secretary inadvertently reported that the Keys proposed to adjourn until the 14th January, instead of reporting that the House had been actually adjourned until that day.

"The Lieutenant-Governor urged that an earlier day should be named, and requested the deputation to convey to the House his desire on the subject.

"Upon the return of the deputation to the Court-house, they found that the members had dispersed, the Speaker having, as before stated, adjourned the House, and vacated the chair.

"The deputation at once reported this to the Lieutenant-Governor, who evidently felt somewhat annoyed that the members had not remained until the return of the deputation.

"On the following day (28th November), the Lieutenant-Governor issued a precept, convening the Keys to meet on Wednesday, the 3rd December.

"The business as set forth in the precept being—

"(1) To receive a message from the Governor.

"(2) To sign "The Wesleyan Methodist Bill,"

"The Church and Clergy Bill," and

"The Weights and Measures Bill.

"(3) To consider the Bills before the House, and

continue their session until they had concluded the business

"(4) To transact such other business as might be brought before them.

"The Keys could not fail to observe that this precept was most exceptional in its character and unprecedented in its form. They were called together for certain legitimate purposes (namely those marked 1, 3, and 4), but were powerless to act in the matter referred to under head 2, which could only be done in Tynwald, and yet all reference to the Tynwald Court was omitted.

"On Wednesday, the 3rd December, the House met in obedience to summons, when a message in writing from the Lieutenant-Governor was handed to the Speaker.

"From the tenor of that message, and the immediate summoning of the House for the transaction of the business named in the precept, it was obvious to the Keys that his Excellency felt a degree of displeasure at their action with respect to their adjournment, and their right to regulate their own sittings. The Keys, therefore, in a communication addressed by them to the Lieutenant-Governor on that day, explained at some length the circumstances of the case, at the same time disclaiming any intention of showing want of respect to his Excellency, maintaining their constitutional right to adjourn from time to time, according to their own discretion, and denying the power of the Governor to override such adjournment.

"Subsequently the Lieutenant-Governor having requested a conference with the Keys, a deputation of the House was appointed, and waited upon his Excellency.

"During this conference, the Lieutenant-Governor informed the deputation that he intended to hold a Tynwald Court, upon which it was intimated that no notice of such had been given, as was usual. To this his Excellency replied, that he did not consider it at all necessary to give such notice.

"The question was then distinctly asked of the Lieutenant-Governor whether he claimed the power of requiring the Keys to meet in Tynwald, without notice, as a *matter of right*, when his Excellency emphatically replied that *he did*.

"The deputation then withdrew, and upon the question being discussed in the House, it was unanimously resolved that, in the opinion of the Keys, the Lieutenant-Governor did not possess the power claimed, as a *matter of right*, to compel the attendance of the Keys to meet in Tynwald, in the absence of a summons under precept as was customary.

"A deputation accordingly reported to his Excellency that, under the circumstances, the Keys declined to meet that day in Tynwald, and at the same time reported that the House adhered to their adjournment to the 14th January.

"His Excellency subsequently, on the same day (3rd December), sent a further message to the Keys, intimating that as 'questions of such grave constitutional importance' were raised, he would issue his precept for a Tynwald Court to meet on the following Monday, when he would inform the House as to the course which he might, after consultation with the Council, think it advisable to follow. In accordance with this last message, two precepts were issued for Monday, the 8th December, one for a Tynwald Court at 11-15 a.m., to sign the Bills named in the precept of the 28th November, and the other for a meeting of the House of Keys at 11-45 a.m., to receive a message from the Governor, and transact such other business as might be brought before them.

"The Tynwald Court sat on the 8th December, at which various matters of business were disposed of, and, pursuant to summons, the Keys were in their places at the hour named in the precept. The message from the Lieutenant-Governor, referred to in the first paragraph of this communication (and which was a printed one), was handed to the Speaker, and read.

"Before, however, time would permit the House to come to any conclusion with respect to it, a further message was handed to the Speaker, stating that—
'The Lieutenant-Governor and Council request a conference with the House

they met upon ; and that upon a remonstrance of the House

prior to the House coming to any determination upon the subjects referred to in the Lieutenant-Governor's message.

"To this, the Keys at once replied, saying that they considered 'it would be improper to make any question involving any rights or privileges of the House the subject of a conference with the Council, the Keys claiming to be the sole judges of their own privileges,' and deferring giving any reply to the general question involved in the Lieutenant-Governor's message, until the 14th January.

"Inasmuch as an entirely unusual course had been adopted by the Lieutenant-Governor in sending his message to the Keys *in print*, and in which reference was made to the previous communications, the deputation who waited upon the Lieutenant-Governor called his Excellency's attention to the fact, and inquired whether it would not be advisable that the whole should be published.

"The Lieutenant-Governor subsequently forwarded a message to the House to the effect that he considered it desirable that the various communications should be published. The Keys reported their concurrence with this, and then formally adjourned their sitting until the 14th January, reporting such to the Lieutenant-Governor.

"In the message of the 8th December, the Lieutenant-Governor says that two constitutional questions appear to be raised. The Keys, however, consider that the questions involved are not so limited, and although his Excellency states 'that it has never been his intention to question the power of the House to regulate, after reporting progress to the Lieutenant-Governor, their own adjournments,' the Keys cannot divest themselves of the impression that the questioning of this power, if not directly, is at all events *indirectly* aimed at, and in this view they are supported by the former proceedings of his Excellency.

"The Keys cannot forget that this is not the first or only instance in which their right to regulate their own sittings, meetings, and adjournments, has been raised. Eight years ago, a question arose between the Lieutenant-Governor and the House, so analogous to the present one, that the Keys deem it right to call his Excellency's special attention to it.

"In November, 1871, there were a number of Bills before the Keys, who met at Castletown on several consecutive days, and up to the 28th of that month, when they adjourned to the 30th at Douglas, a Tynwald Court having been appointed to be held there on that day.

"At the close of the business on the last-named day, it was found that five Bills were ready for discussion, namely :—

- "(1) The 'Public Prosecutors Bill,'
- "(2) 'Douglas and Peel Railway Bill,'
- "(3) 'Public Notices Bill,'
- "(4) 'The Companies Bill,'
- "(5) 'The Advocates Fees Bill.'

"A similar difficulty to that which presented itself on the 27th November last, then occurred, viz., the appointing a convenient day whereon to meet for the consideration of the several matters before the House. Finally, the 7th February, 1872, was fixed upon, and the House was formally adjourned to that day, and this was duly reported to the Lieutenant-Governor.

"His Excellency on that occasion, as on the last, expressed much dissatisfaction with respect to the action of the Keys, and immediately (namely, on the 2nd December), issued his precept to convene the Keys to meet on the 19th December, to consider—

- " "The Public Prosecutors Bill,'
- " "Douglas and Peel Railway Bill,'
- " "Public Notices Bill,'

to the Lord Proprietor on one of those occasions, the

"'Companies Bill,' and
" 'Advocates Fees Bill.'

"The Keys in obedience to the summons under this precept, met on the 19th December, 1871, and then passed a resolution to the following effect:—'That finding the business before them, and remaining undisposed of, consisted of the identical measures referred to in his Excellency's precept, which they were called upon to proceed with, and whilst acknowledging the right of the Lieutenant-Governor to convene them at any time for the transaction of public business, they claimed the indubitable right, when once assembled, to regulate their own sittings, and to adjourn the consideration of any business before them to any particular day, firmly maintaining that they possessed the same power to adjourn the consideration of such business as might be before them, from time to time, in accordance with a vote of the House, as was immemorably exercised by the former House of Keys; and seeing that there was no other business before them, except the matters that had been adjourned to the 7th February, they declined to consider the Bills named in the precept, and adjourned until the said 7th February.'

"On the 31st January, 1872, a Tynwald Court was held, when a communication from his Excellency was handed to the Speaker. It was in reply to the Keys' resolution of the 19th December, and referred, in the first instance, to the power vested in the Lieutenant-Governor to summon the Keys under the provisions of 'The House of Keys Election Act,' and the course of procedure in the House of Commons. The Lieutenant-Governor then stated that he had no desire to interfere with any of the privileges of the House, or unduly with the discretion of the House on all questions of adjournment, and intimated that he would be glad to consider whether it might not be practicable to have fixed periods for the sitting of the Legislature, and he invited the House of Keys to submit to him their views on the subject.

"The Keys in acknowledging the receipt of his Excellency's communication, whilst declining to qualify the terms of their resolution, expressed their willingness to confer with his Excellency on the subject of regular meetings.

"On the 18th April, 1874, the Lieutenant Governor forwarded a message to the Keys informing them of the periods, during each year, at which he proposed to call them together for the despatch of business.

"At a meeting of the Keys, held on the 30th April, a committee of the House was appointed to consider the Lieut.-Governor's message, and to confer with his Excellency on the subject. Such committee consisted of Messrs Geo. Wm. Dumbell, John Thos. Clucas, and Robert J. Moore.

"A conference having subsequently taken place, the Lieutenant-Governor on the 3rd November, 1874, submitted to the Keys a scheme having for its object the holding of fixed sessions, and for the general regulation of the sittings of the Legislature.

"Pending the consideration of this communication, the Keys met at their House in Castletown, under the Lieutenant-Governor's precept, on the 26th November, 1874, when they adjourned until the following day at Douglas. They again adjourned their sitting until the 2nd December, at Douglas, and duly reported the same to the Lieutenant-Governor.

"His Excellency conceiving that the Keys had again exceeded their rights and had usurped a power they did not possess, on the 30th November, 1874, addressed a lengthened communication to the House, with reference to their adjournments to Douglas. His Excellency reminded the Keys that his precept summoned the Keys to meet in Castletown, and that they were still in session, under that precept, by adjournments. That he was unaware of any law or custom that gave to the House of Keys power to alter the place to which they had been summoned under the Lieutenant-Governor's precept; that he could not admit that any inconvenience occasioned to individual members to meet at Castletown, would afford sufficient grounds for the House 'assuming a power

Governor's power and proceedings in this respect received the sanction and approbation of the Lord Proprietor.

that is not shown by precedent or statute to be inherent in the House,' and that he could not 'recognize the claim of the House to select, independently of the Lieutenant-Governor, their place of meeting.' His Excellency concluded by saying that he would be glad to receive a deputation of the House to confer upon the general questions.

"At a meeting of the House of Keys held on the 2nd December, 1874, the Keys returned two replies to the Lieutenant-Governor, one with reference to the message from his Excellency of the 3rd November, and the other with respect to his communication of the 30th November.

"In these replies the several points raised by his Excellency were discussed, and various suggestions made.

"The Keys maintained that they had equal power to determine the place, as well as the time, of meeting by adjournment; and, in compliance with the Lieutenant-Governor's suggestion, the House appointed a committee of five of its members to confer with his Excellency.

"On the 28th December, 1874, his Excellency addressed a further communication to the Keys, in which he reviewed the resolutions of the House under date of the 2nd December.

"His Excellency classed the points there at issue under three heads—

"1. The difficulty and inconvenience that might result by requiring the House to report to the Lieutenant-Governor before the adjournment of the House.'

"2. The claim of the House to adjourn for any period the House considered desirable, without reference to the Lieutenant-Governor.'

"3. The claim of the House to determine their own place of meeting.' "And his Excellency offered various suggestions with a view to meet the difficulties raised by the Keys.

"At a meeting of the House, held on the 31st May, 1875, the Keys replied to the Lieutenant-Governor, adopting, to some extent, several of the suggestions made by his Excellency.

"It will be borne in mind that, at this time, negotiations were going on with a view to the removal of the legislative buildings from Castletown to Douglas; proposals were being made to amend "The House of Keys Election Act," and the general question of regular sessions was under consideration.

"Notwithstanding the discussion that had taken place, and the various suggestions that had been made, no definite arrangement, or distinctly organized plan, was arrived at, and the matter remained in abeyance from that time to the present.

"The object of the Keys in referring to these transactions is to show that from time to time questions have been raised which, had they not have been combated, were calculated, both directly and indirectly, to infringe upon, and materially curtail, those rights and privileges which the Keys have ever enjoyed, and which they consider it their bounden duty to preserve.

"Referring to the 1st 'constitutional question' named in the Lieutenant-Governor's message, namely, 'The right of the Lieutenant-Governor to require a deputation of the House to report progress, and to inquire whether he has further business to lay before them, before the House separates for any lengthened period beyond the ordinary daily adjournments,' it appears to the Keys that there is very little actual or material difference between the Lieutenant-Governor and the House.

"The view of the Keys, and the distinction drawn by them with respect to reporting progress, is this—When *they have disposed of the business before them*, a deputation is appointed to 'report progress,' and to inquire whether the Lieutenant-Governor has any further business to lay before them. This is done before the House separates, and it is the duty of the members to remain until

The privileges that appear to have been claimed by the

the return of the deputation with such reply as may have been given by the Lieutenant-Governor to the inquiry. But even in this case difficulties frequently arise to prevent the inquiry being made ; for instance, when the Lieutenant-Governor is absent, either from his office or from the Island.

" In such instances the reporting progress has to be delayed, it may be for several days, or even for a more lengthened period. This shows, therefore, that no rule for reporting progress in manner sought for by the Lieutenant-Governor, can be carried out with absolute strictness. But when the House *does not close the business before it*, and merely decides to adjourn to a future day—thereby keeping the session open—the Keys contend that all they have to do is to report to the Lieutenant-Governor the progress they have made, and the fact of their having adjourned, and in such case it is not necessary or incumbent upon them to make any inquiry as to further business.

" This appears to have been the ancient custom, for, according to the evidence of the witness referred to by the Lieutenant-Governor with respect to another point (Mr. John Taubman, the Speaker of the House of Keys, in 1791), that gentleman says :—' When the business of the session is finished, the Speaker informs the Governor thereof, and requests to know if he has any further commands, and then adjourns the House *sine die*.'

" The second point suggested by his Excellency is—' The power of the Lieutenant-Governor when the Keys are sitting in session, to require their attendance to meet him and the Council in Tynwald, when not specially summoned by precept for that purpose ?'

" With respect to this, the Keys deem it important to refer to the past.

" In former days, the Keys were called together by summons, under precept from the Governor or Lieutenant-Governor, for *four* distinct matters of business.

" "1. To attend as a component part of the Tynwald Court, for the transaction of business strictly conducted at such Court."

" "2. To attend and take part in the proceedings of the Court of General Gaol Delivery."

" "3. To assemble in their Legislative capacity," and

" "4. To form the Court of Appeal from verdicts of juries at Common Law, &c.'

" In each case the particular nature of the meeting, and the special business to be brought forward, was set out in the precept.

" Inasmuch as the public were materially interested in the holding of the several Courts of Tynwald, General Gaol Delivery, and Appeal (heads 1, 2, and 4), it was the custom to publish at the church door in the several parishes, at least on one Sunday, the time, place, and object of the holding of these Courts.

" Since the Keys were relieved from their attendance at the Court of General Gaol Delivery, and since the abolition of their appellate jurisdiction, two forms of precept only have been in use ; one for a Tynwald Court, and the other for the House of Keys, in their legislative capacity.

" It has been the uniform practice to set out on the face of these precepts the particular business to be brought forward, either in Tynwald or before the Keys. A departure from such a course would be, in the opinion of the Keys, not only highly inconvenient and objectionable to them, but would be fraught with most dangerous consequences to the community at large.

" It must be acknowledged that, within the last few years (consequent doubtless upon the more frequent sittings of the Legislature), various trifling innovations have crept in, and a strict adherence to old forms has not, on all occasions, been observed, and the Keys freely admit that, on several occasions, when they have been assembled for legislative business, they have, with a view both to public and private convenience, acquiesced in the request of the Lieutenant-Governor to meet him and the Council, and thus form a Tynwald Court.

Keys were, to elect their Speaker, who was to be approved of

"But they deny that such a voluntary acquiescence on their part can be construed into the giving of an *absolute right* to the Lieutenant-Governor to *compel* their meeting in Tynwald, without a summons, and without notice of the object of the Court, or of the nature of the business to be brought forward at it, and which right is now, for the *first time*, as they believe, sought to be established.

"The Lieutenant-Governor, in the message now under review, refers to the proceedings at the Tynwald Court held at St. John's, on the 5th July last, and which he insinuates were unconstitutional.

"His Excellency says, with reference to the Keys:— 'Although summoned to a Tynwald Court, they adjourned without the direction of the Lieutenant-Governor to their House for the despatch of business, suspended their standing orders, and passed a Railway Bill.'

"As this raises not only a novel, but a most important issue, the Keys cannot permit it to pass without special comment and explanation.

"From time immemorial a Tynwald Court has been held at St. John's on the 5th July in each year, and occasionally at other periods, the chapel being used as the house of assembly. On that day the several branches of the Legislature have invariably assembled in different parts of the chapel; the Governor and Council occupying the chancel, whilst the south transept has been appropriated to the Keys, as their *House* for the day.

"Not only in former days, but also at the present time, the two bodies have met in the chapel, as independent branches of the Legislature, the Governor and Council transacting business entirely irrespective of the Keys, and the Keys in like manner, sitting as a House, and discussing and passing such measures as came before them, receiving messages, appointing deputations, and acting in every way as if they severally occupied separate buildings, with the single exception, however, that on these occasions the deliberations of the Council are conducted openly, and in presence of the public.

"When called upon by the Governor, as they always are, to assemble in Tynwald, the Keys remove from their appropriated place in the south transept to the body of the chapel, and there join the Governor and Council in forming a Tynwald Court. In reference to the Tynwald at St. John's more especially, the Keys never heard that a doubt had ever been raised with respect to their right to transact business as an independent branch of the Legislature at that Court, and to adjourn their sittings therefrom according to their own discretion, and thus keep themselves continuously in session. And they have no hesitation in saying that this right has been invariably exercised and acted upon by the Keys, and that it was acquiesced in, and acknowledged by, the most determined opponent that the Keys ever had, as Governor of this Island, and has been universally acted upon in modern times, and up to the present day.

"Whenever the Keys are called together under precept, whether specially for a Tynwald Court, or otherwise, they claim it as a undisputable right to adjourn their sittings from day to day, and from place to place, as may suit their own convenience; and this right the members of the old House, as well as those of the elected House, have not only always maintained, but have constantly exercised.

"Any collision or misunderstanding between the executive, or the other branch of the Legislature, and the House of Keys, is greatly to be deplored, and the Keys sincerely regret that any occasion should have arisen to cause the present discussion.

"The Keys reiterate their disclaimer of any intention to offer a slight, or anything bordering upon disrespect to the Lieutenant-Governor, in their proceedings in connection with the present painful dispute. They have been influenced by one object only, namely, that of preserving the ancient rights and privileges of the House of Keys, which were specially reserved to them by the "House of Keys Election Act," and of preventing any undue interference therewith, or curtailment thereof.

by the Governor, and generally held the office for life, without any emoluments annexed to it ; a right to kill game ; and an exemption from all services whatever which would otherwise have been due from them to the Lord Proprietor.⁶

Having thus briefly described the constituent parts of the legislative authority in the Island, we shall in like manner notice the mode in which the laws were passed and enacted, prior to the revestment.

When the Governor and Council and Keys were assembled for the purpose of legislation, any intended bill or law might originate in either of these assemblies ; and the Keys do not appear to have had any exclusive privilege with respect to money bills.

" In the opinion of the House, it is highly expedient that some definite understanding should be arrived at, relative not only to the sittings of the Keys, but with reference to a general and systematic mode of transacting the legislative business.

" With a view, therefore, to avoid future controversies, and secure that harmony, unanimity, and good feeling which it is so desirable should exist between the members of a legislative body—particularly in a small community like ours—it appears to the House that the present would be a most opportune time to revive the consideration of the proposals made by the Lieutenant-Governor in 1874, and to this end, that a scheme, upon a fair and equitable basis, should be adopted, which, whilst the independent action of the Lieutenant-Governor, on the one hand, should be thoroughly recognized and secured, the rights, powers, and privileges of the Keys, should be preserved, respected, and maintained.

" For the convenience of reference, it has been deemed expedient to append hereto a copy of the correspondence referred to in this communication.

" By order of the House,

" WILLIAM BELL CHRISTIAN,

" Acting-Speaker.

" To his Excellency the Lieutenant-Governor, &c., &c."

The 125th section of "The House of Keys Election Act, 1866," enacts :—
" It shall be lawful for the Governor from time to time, by precept under his hand, to summon the House of Keys when not in session, or when the said House stands adjourned or prorogued, though adjourned or prorogued to a more distant day or for a longer period, to meet for the transaction and despatch of business, and from time to time to prorogue the same, and also from time to time, and whenever he shall deem it expedient, to dissolve the said House of Keys by proclamation, and issue fresh writs for the election of new members to serve in the said House of Keys." The remaining portion of this section is repealed.

This note (5) has been carefully revised and approved of by Mr R. J. Meere, who has been a member of the Keys for thirty years, and Secretary for upwards of twenty years.

" The privileges named, formerly allowed to members of the Keys, are now abolished. For further information as to the powers of the Keys, and the procedure before them and the Tynwald Court, see the note to John Taubman's examination, Appendix 8.

The draft of the bill being prepared, if it originated in the Council, was in that assembly first considered and discussed. After it had been there settled and approved of, the Governor convened the Keys to receive the bill, and it was then debated upon in their House ; and they had a power to reject, or return it to the Governor and Council without amendments, or with such as they thought proper. If it was returned with amendments, the two last-mentioned branches of the Legislature met, and settled the alterations proposed.

When the bill had passed through these stages, and was so far settled, it was engrossed. The Keys were again summoned to attend the Governor and Council in the Council Chamber, and there the bill was read over in their presence, and signed by as many of the members of the two Houses present as had attended the progress, or approved of the intended law.

When any bill originated in the House of Keys, and was approved of by thirteen of the members of that House, it was from them sent to the Governor and Council for their discussion, and they had a power to reject or approve of it, either with or without amendments ; and when approved of, it was engrossed, read over, and signed in the Council Chamber, in the same manner as if it had been first brought in by the Governor and Council.

After the bill had proceeded thus far, it was transmitted to the Lord Proprietor for his assent ; and he had a power of rejecting, as well as of giving a general or qualified assent thereto.

When it was returned with the approbation of the Lord Proprietor, the Governor ordered a Court to be held on the Tynwald Hill, and there the Act was read over fully in the English and Manks languages, in the presence of, and signed by the Governor, and as many of the Council and Keys then

present as chose to attest that promulgation of the law. It then became an Act of the Legislature of the Island, and binding upon its inhabitants.

It appears clearly settled, that thirteen Keys are necessary to constitute an House, and concur to render any Act in their legislative capacity valid ; but what number of the Governor's Council must in like manner agree in opinion to give effect to any of their Legislative Acts, is not, as far as we could learn, settled or agreed upon.

Before the revestment, the debates of the House of Keys upon bills brought before them are said to have been carried on publicly in their House, and that the people were in general acquainted with the purport of the laws in agitation there ; and instances were mentioned, though not produced, of petitions having been presented to the House of Keys against Bills then pending, and of days being appointed for hearing the parties in person thereon.

The Acts of the Legislature of the Island thus constituted, were binding in all cases whatsoever. The Statute Book presents laws and enactments respecting every object of Legislation, public and private ; and this Constitution of the Legislature of the Isle having been sanctioned by the almost uninterrupted practice of an hundred and fifty years prior to the revestment, may justly be considered as finally and completely established at that period.⁷

⁷ In 1876 an important constitutional question arose respecting the *status* and power of the Manx Legislature. It being desirable to legislate respecting the revenues of the Manx Bishopric, and to apply a portion of them to other purposes, the Secretary of State, on being applied to by the Governor of the Island for the consent of the Crown to the requisite legislation by the Manx Legislature, referred the question of the power of the Insular Legislature to deal with the temporalities of the See, and thereby to affect the property and prerogative of the Crown, to the Attorney-General of England, Sir John Holker, and Sir Hardinge Giffard, the Solicitor-General. They advised that the Insular Legislature had no power to legislate on the matter, even with the consent of the Crown, and that an Act of the Imperial Parliament was requisite.

This opinion was replied to by the following case prepared by Sir James Gell, the Attorney-General of the Island, who claimed that, irrespective of the numerous precedents of Insular legislation affecting Crown rights which he

Having thus described the legislative authority in the Island previous to the revestment, we shall proceed to an account of the executive and judicial parts of its Government

quoted, and in the absence of express restriction, "it must be presumed that the powers of the Legislature of a country, especially when such country is an ancient kingdom or sovereignty, are unlimited and supreme in all matters within or affecting the country," and that hence the Insular Legislature was the proper constitutional authority to deal with the Bishopric of the Island, although Crown rights might be affected :—

"ISLE OF MAN AND DIOCESE OF SODOR AND MAN.

"The Isle of Man is an ancient kingdom. From the early part of the tenth century it has been known to have had the Legislature (commonly designated the *Tynwald*) which now exists—namely, three estates :—(1.) The Sovereign ; (2.) The Governor and Council ; and (3.) The House of Keys. The second estate, previously to the Reformation, is supposed to have included the Barons of the Island, all of whom, except the Bishop, were the heads of religious houses. The Bishop is now the only Baron of the Island,—he has a seat *ex officio* in the Council. For several centuries the Southern Hebrides were, with the Isle of Man, united in one kingdom—*Man and the Isles*—a designation which has been retained to the present time. During such union the Scotch Isles returned eight members to the House of Keys, the Isle of Man furnishing sixteen members. After the separation of the Scotch Isles, the whole number of members were elected from the Isle of Man,—such number having been from the earliest times twenty-four. The designation of the House in the Manx language is *Yn Chaire as-feed*,—Angl., *The Four-and-twenty*.

"The Kings of the Isle of Man were from an early period feudatory to the Kings of Norway, afterwards to the Kings of Scotland, and subsequently to the Kings of England.

"The real origin of the connection of the Isle with England cannot now be very clearly ascertained, but it appears that Reginald I., King of Man (an illegitimate son of Goddard II., the preceding king, and an usurper), who was subject to the King of Norway, and who reigned from 1187 to 1226, transferred his allegiance from the King of Norway to King John of England, and about the year 1206 professed to surrender the Isle to King John, who re-granted it to Reginald, to be held of the Crown of England by liege homage. The same Reginald, in 1219, in imitation of John, submitted to the Pope, and constituted himself a vassal of the See of Rome. By the instrument of surrender he offered the Isle, which he alleged belonged to him by inheritance, and for which he was not bound to do service to any, to the Pope and his successors, and declared that he and his heirs would hold the Island as a grant from the Church of Rome, and would do homage and pay a yearly tribute of twelve marks for it. In the same year (1219), King Henry III. of England granted to Reginald letters of safe-conduct to go to England to do homage.

"In 1250 Harold II., King of Man, applied to King Henry III. of England for a licence or safe-conduct to go into England to confer with him and to perform certain things due to him. This matter is specially referred to in the Report of *Calvin's case* (*4 Coke's Reports by Fraser*, 36), in which report it is stated :—'Wherein two things are to be observed. 1. That seeing that Artold [Harold] King of Man sued for a licence in this case to the King, it proveth him an absolute king, for that a monarch or absolute prince cannot come into England without leave of the King, but any subject, being leagued, may come into this realm without licence. 2. That the King in his licence doth style him by the name of a king.'

"Harold was succeeded by Magnus, who was the last of the kings who were subject to the Crown of Norway. In 1264 he ceded the Isle to Alexander III., King of Scotland, by whom the Isle was re-granted to Magnus, who was thereafter to hold the Island from the Crown of Scotland.

prior to the year 1765 (exclusive of that of the lord proprietor before noticed), consisting of a council in the nature of a privy or executive council, and frequently styled the Lord's

"In 1290 the inhabitants of the Isle submitted themselves to King Edward I of England, as their lord. In the document of submission it is stated that King Edward had taken the Isle into his own hands 'for protection and defence.' Edward committed the Island to Walter de Huntercombe, who in 1292, by order of King Edward (who styled himself King and Lord Superior of Scotland), surrendered the Island to John Balliol, King of Scotland.

"King Edward I. appears to have been at Perth in Scotland in 1292, to settle differences between the factions of Bruce and Balliol. When there, a claim to the Crown of the Isle of Man was made by Mary, daughter of Reginald II. King of Man. She was referred by Edward to the King of Scotland, of whom the Isle was held. Nothing further as to her claim appears to have been done; but in 1304 her grandson and heir, John de Waldebeof, renewed the claim to Edward I., by whom it was referred to the Justices of the King's Bench. The claim was one against the King of Scotland, and it may be that it was considered that a claim against such King was cognizable in England, as the English King claimed to be the superior of the King of Scotland,

"But in 1293 another claimant to the Crown of the Isle had arisen in the person of Aufrica de Connaught, sister of Magnus, King of Man. She applied to Edward I. against the King of Scotland, who was cited to appear in England to defend the claim made. It does not appear that either claim to the Island was prosecuted, or that the jurisdiction of the English King as asserted was submitted to by the Scotch King.

"Between 1305 and 1307 Sir William Montacute (an English subject), son of Aufrica, the claimant above mentioned, is supposed to have conquered the Island from the Scots, and to have mortgaged it in 1307 to Anthony Beck, Bishop of Durham, who appears to have been in possession of the Isle. In that year Edward I. issued a *scire facias* to Beck to show cause why the King should not resume the Island into his own hands, and it would appear that the King obtained possession, for by his successor Edward II. various grants of the Isle were from time to time made. However, in 1313, King Robert Bruce of Scotland re-conquered the Island, and several grants of the Isle were successively made by him.

"If Sir William Montacute made a conquest of the Isle, as before stated, his son Sir William, first Earl of Salisbury, must have made a second conquest. However, he appears to have acquired possession, which was confirmed by grant of King Edward III. of England in 1333. The first Earl of Salisbury is supposed to have united in his person the rival claims of Mary and Aufrica to the Crown of Man by hereditary descent, and in King Edward's grant there is no reservation of any homage or service to the Crown of England.

✓ "The Earl of Salisbury was succeeded in the Kingdom of Man by his son William, the 2nd earl, who sold the Island to William le Scroop, afterwards Earl of Wiltshire. Sir William Scroop was amongst the opponents of the Duke of Lancaster (afterwards Henry IV.) when he sought the crown of England. He was taken prisoner, and beheaded by the order of the Duke, who, in 1398, seized the Isle of Man and the property of Sir William, and claimed to hold them as 'conquest.' Parliament declared the lands and tenements of Scroop and others forfeited to the King by 'right of conquest,' though, to satisfy the Parliament, he abandoned the claim which he had made to the Crown of England as acquired by conquest.

"In 1399 King Henry IV. by letters patent granted to Henry de Percy, Earl of Northumberland, the Isle of Man, stated in the grant to have belonged to Sir William le Scroop, deceased, 'whom in his life we lately conquered, and so have decreed him conquered, and which, by reason of that conquest, as having been conquered we seized into our hands, which decree and conquest as touching the person of the said William and all his lands and tenements, goods

Council; the superior and inferior courts of judicature, and magistrates and ministerial officers in the Island.

The last Council is mentioned in several of the earliest of

and chattels, as well within as without our said kingdom, in our Parliament, by the assent of the Lords temporal in the same Parliament assembled at the petition of our said kingdom are confirmed.' If the Isle of Man was included in the confirmation made by Parliament, the question would be,—in what sense the acquisition of the Isle of Man was a conquest, and whether it meant more than that the Island was acquired otherwise than by inheritance. However, the acquisition, of whatever character it was, appears to have been the first occasion when the Island came into the absolute possession of the Crown of England free from adverse or opposing claims, and all claims under previous sovereigns having become extinct.

"King Henry IV., in 1405, resumed possession of the Island on the ground that it had become confiscated and forfeited by the treason of the Earl of Northumberland, and by letters patent granted the Island to Sir John Stanley for life. This grant was surrendered, and in 1406, by letters patent, the same king granted the Isle to Sir John Stanley, his heirs and assigns, subject to the service of rendering two falcons to the King of England for the time being on the day of his coronation. In the reign of Queen Elizabeth, on the occasion of a dispute as to the succession to the Island, it was discovered that the grant to Sir John Stanley was invalid by reason of the non-attainder of the Earl of Northumberland at the time of the grant; but in the meantime the sovereignty of the Island was held by seven lineal descendants of Sir John Stanley, the last of such seven being Ferdinando, 5th Earl of Derby, who died in 1595. The sovereigns of the house of Stanley were styled *Kings of Man and the Isles*, until the reign of Thomas, second Earl of Derby, who changed the title to that of *Lord of Man and the Isles*, the title ever afterwards borne by succeeding sovereigns of the Island until 1765.

"On the death of Ferdinando, 5th Earl of Derby, the title to the Island being disputed between the daughters of Ferdinando and his brother William, 6th Earl of Derby, Queen Elizabeth, at the request of the disputants, took into her own hands the government of the Island, and at her decease the government passed to her successor—King James I.—by whom some temporary grants of the Island were made.

"In 1609, after an arrangement between the disputants respecting the title, King James I., by letters patent, granted the Isle to William, 6th Earl of Derby, and Elizabeth, his countess, for their lives and the life of their survivor, and then to their son and heir apparent James, Lord Stanley (afterwards 7th Earl of Derby), and his heirs. By Act of Parliament 8th James I. (1610), such letters patent were virtually confirmed; but the succession was varied, the Isle being limited, after the death of the longer liver of the Earl and his Countess, to James, Lord Stanley, and the heirs male of his body; after his death without such issue, to his brother Robert Stanley, and the heirs male of his body; after his death without such issue to the heirs male of the body of Earl William; and for default of such issue, to the right heirs of James, Lord Stanley; and it was provided in the Act that none of the persons named should have power to alienate the Isle or any part of the premises granted, but that the same should remain and continue to such persons, &c.

"After William, 6th Earl of Derby, four of his descendants, Earls of Derby, were Lords of the Isle, and on the decease of James, 10th Earl, the last of such four, in 1736, the sovereignty passed to James, 2nd Duke of Athole (the heir general of James, the 7th Earl of Derby), who was succeeded by his daughter Charlotte, Baroness Strange, who married John, 3rd Duke of Athole.

"By Act of Parliament 12 Geo. I., c. 28 (1725), secs. 25 and 26, provision was made by which the Commissioners of the Treasury were authorized to treat and contract for the purchase or surrender of the Island with the then Earl of Derby, and any person who might have a claim thereto. Under such Act a

the Manks statutes, and prior to the revestment, when summoned by the Governor in cases of emergency, was to act for the public good in a summary way, without waiting for the

contract was made with John, 3rd Duke of Athole, and Charlotte, his wife, for the surrender of the sovereign rights to the Crown of England, and by Act of Parliament (commonly in the Isle of Man called the *Revesting Act*) 5 Geo. III., c. 26 (10th May, 1765), the contract so made was confirmed, and it was enacted that on payment of £70,000 (the purchase money) the Island should be inalienably vested in the king and his successors. By the Act the patronage of the bishopric and other ecclesiastical patronage, lands, and other rights not necessarily included in the sovereignty, were excepted and reserved. The reserved rights, however, were purchased by the Commissioners of the Treasury for the Crown in 1828 and 1827, under the provisions contained in the Act of Parliament 6 Geo. IV., c. 34 (1825). Since the *Revestment* (as it is termed) in 1765, the Island has been governed as before, but in the name of the Crown of England.

"The legislative power was, previously to 1765, exercised by the local kings or lords (in conjunction with the other estates) without any reference to the Crown of England, and since 1765 the first estate in the Legislature has been the Sovereign of England.

"It is laid down in English books of authority that the Isle of Man is not bound by an Act of the Parliament of England unless it be specially named, and that if named the Isle is so bound. The legality of this position was always disputed by Manx jurists before 1765, but since that date, though it has been affirmed that there never was any legal foundation for the position referred to, Acts of Parliament made applicable to the Island by express words have been recognized by the Courts of Justice and acted on in the Island. The earliest authority as to the Island being bound by Act of Parliament when specially named is believed to have been the case reported by *Kelway Michaelmas 14 Henry VIII.* (1523), and cited in 4 Coke's *Institutes* 201 as to the claim of Ann, Countess of Derby, widow of Thomas, 2nd Earl of Derby and 5th King of Man of the house of Stanley, for dower in the Island. The decision was against the Countess, on the ground that the Island was not part of the realm of England and was not governed by the law of England, and it was alleged by the judges that the Statute *de donis*, of uses, and of wills, and no other general Act of Parliament extended to the Isle of Man, but that by special name an Act may extend to it. The statement of opinion made in the decision with reference to Acts of Parliament seems not to have been necessary for the adjudication of the case. The foundation of it must have been some general doctrine which obtained in England as to possessions of the Crown of England being bound by Act of Parliament if specially named, for up to that time there is no instance of any Act of Parliament which professed to extend to the Isle of Man.

"It is an acknowledged principle that, on the acquisition of a country by force of arms, the conqueror may ordain the laws by which the conquered country shall thereafter be governed. If he ordains no new laws, the old laws continue in force; and it seems not unreasonable to presume, if necessary, that if for a long period following the conquest the country has continued to be governed by the ancient laws and according to its ancient constitution, the conqueror had ordained that such laws and constitution should continue. In the various and frequent changes in the sovereignty of the Island, and until the reign of Henry IV. of England, there is no instance known (historically or otherwise) of any change in the law or constitution of the Island having been ordained by any person who may have been in the position of a conqueror of the Island. One of the earliest records extant in the Island is that with which the Statute Book of the Island commences. It is of the date of 1417, or thereabouts. It is a declaration by the Tynwald—the King (Sir John Stanley) being present—as to the ancient mode of holding the Court of Tynwald and as to various points of the common law, which were then reduced to writing. The

concurrence of the House of Keys or lord proprietor.

Doubts have likewise arisen respecting the persons that were to be considered as members of this Council.

inference from this record is that the old constitution and laws had been preserved. Henry IV. called himself the conqueror of the Island, and, as hereinbefore stated, he considered that the Parliament had affirmed his claim to the Island as an acquisition by conquest. If such conquest was really, or by the act of the Parliament was to be considered as, a conquest by force of arms, the conqueror ordained no new constitution or laws for the Island. On the 1st of April, 1609, King James I., by letters patent, apparently issued for the benefit of the people of the Island, declared as follows:—‘Whereas, by our royal prerogative and the laws and customs of our kingdom of England, it wholly appertains to us, from the fulness of our power, at our free will and royal pleasure, from time to time to make, declare, and ordain, in all such territories, countries, and places which have been acquired or conquered by the force of our arms, such ordinances and laws which all our subjects residing in those parts and have lands of inheritance or goods or chattels there may use, enjoy, hold, and be obliged to observe’; and then, without any explanation as to the conquest referred to, ordained as a law, certain provisions as to transfer of property within the Isle and for confirming the laws with reference thereto, theretofore in use. The provisions of these letters patent, if of any validity, amounted to a confirmation of the previous law of the Island with respect to the alienation of lands as understood and claimed by the people of the island, though disputed by the lords, who claimed an absolute right in all lands within the Island, a claim which for generations, and until 1704, was the cause of serious contentions between the lords and their subjects. But King James was not personally a conqueror of the Island by force of arms: he had succeeded to the government of it merely on the death of Queen Elizabeth, who, as before stated, had taken possession of the Island until the dispute as to the succession in the House of Stanley should be determined. If King James relied on the alleged conquest by Henry IV., and if the grant of the Island by that King was valid, it can hardly be considered that Henry IV. or any of his successors could, after the grant, ordain laws for the country granted. If King James acted on the assumption that the grant by Henry IV. was invalid (and by the various grants which he made he seems to have considered that the Island was at his own disposal), then, at the date of the letters patent, the Earls of Northampton and Salisbury held the Island under grant dated 14th August, 1607. The ancient laws and constitution of the Island have, therefore, continued from the earliest time of which there is any account, without any change having been effected by any conqueror of the country.

“The diocese of Man consists of the Isle of Man, and the temporalities of the Bishop are wholly within the Isle. For a considerable time, and during part of the period of the union of the Southern Hebrides with the Isle of Man in one kingdom, the bishoprics of the Isles, commonly called *Sodor*, was united with that of Man. After the severance of the sees, the Bishops of Man retained the title of *Sodor*, and the diocese of Man is now designated *Sodor and Man*. The diocese of Man appears to have been at one time subject to the archiepiscopal see of Drontheim, in Norway. After the time of the connection of the Isle with England, it was treated as subject to the Archbishop of Canterbury. By Act of Parliament 33 Henry VIII., c. 31, the see of Man was transferred from the jurisdiction of Canterbury to that of York. The ecclesiastical law of the Island is in many respects different from that of England; and the ecclesiastical courts of the Island have a jurisdiction in temporal matters much more extensive than that which was exercised by the English ecclesiastical courts, at any rate, since the Reformation.

“The Legislature of the Island has always exercised the supreme legislative authority, except that since 1765, the Parliament of England has, with respect to the Customs Revenue, the Post-office, the Harbours, and the Army

Had their proceedings been conducted with that regularity which might have been expected, at least in the latter part of the proprietary state of the Island, their minutes or journals

and Navy, assumed the power of legislation. But, otherwise, the Statute Book of the Island shows legislation on almost all manner of subjects—civil, ecclesiastical, criminal, military, revenue, &c. The legislation includes matters affecting the Sovereigns of the Island (including those of England since the Revestment in 1765) and their prerogatives, the administration of justice, the tenure and descent of real property, marriage, the change of the calendar, the levying of rates and taxes in regard to the Customs, harbours, highways, health, Lunatic Asylum, education, ecclesiastical purposes, &c.; the currency, weights and measures, the incorporation of joint stock companies and of other bodies charitable and otherwise; &c., &c. The legislation in ecclesiastical matters goes back to at least the early part of the 16th century. The Statute Book contains a great number of points of ecclesiastical common law committed to writing (as was usual in ancient times), such as tithes and dues belonging to the Bishop and clergy, their glebe lands, the rights of executors of deceased spiritual persons and their successors, the relative positions of incumbents and curates, &c. In 1697 was passed an Act against non-residence applicable to the Bishop, Archdeacon, and clergy (and also to the temporal officers); in 1704, a code of canons passed by the Bishop and clergy assembled in convocation received the approval of the Legislature, and thus became an Act of Tynwald; in 1734, was passed an Act as to the providing of houses of residence for rectors and vicar, and as to the dilapidation of glebe houses; in 1742, one for the exchange of glebe lands of the vicarage of Braddan; in 1839, one for the commutation of tithes; one in 1839 for the erection, in parish of Andreas (*Crown patronage*), of a new chapel, to be endowed out of the tithes of the rector of the parish; in 1844, one for ascertaining and defining certain rights of ecclesiastical persons in their temporalities (this Act applies to the Bishop and clergy); in 1847, one by which any future appointment to the vicarage of Braddan should be subject to such measures for the division of the parish, &c., as might be afterwards enacted by Act of Tynwald; in 1860, one to authorise incumbents to grant leases of glebe lands; in 1866, one to provide for the exchange of glebe lands; and from 1710 to 1870, there are at least twenty Acts providing for the erection of parish churches, glebe houses, and church schools, the providing of churchyards, &c. By some of these Acts the appropriation of portions of glebe lands for churches, churchyards, and schools is authorized,—for instance, in 1800, part of glebe lands of rectory of Andreas (*Crown patronage*), for the site of a new church; in 1830, part of glebe land of the vicarage of Lonan (*Crown patronage*), for site of a new church; in 1830, part of glebe land of vicarage of Conchan (*Crown patronage*), for a like purpose; in 1834, part of glebe lands of vicarage of Michael (*Crown patronage*), for a like purpose; in 1836, part of glebe lands of rectory of Andreas (*Crown patronage*), for a school-house; in 1839, the sale of the old vicarage house of Conchan (*Crown patronage*), and the erection of a new one with the proceeds; in 1847, part of glebe lands of rectory of Andreas (*Crown patronage*), for enlarging the churchyard; in 1852, part of the same glebe lands, as a site for a girls' school, &c.

"The canons of 1704 contain provisions which affect the clergy and people in the conduct and regulation of Divine service; the Calendar Act of 1753 contains enactments for altering the rules for ascertaining Easter, holy-days, &c.; the Marriage Acts of 1757 and 1849, direct the mode of publication of banns of marriage in church; and the Public Notices Act of 1872 regulates the giving notices in and at churches. The subject matter of the last-mentioned Act had been dealt with by Act of Parliament—7 Wm. IV. & 1 Vic. c. 45 (1837)—but such Act had not been observed in the Island, the inhabitants having been ignorant of its contents; and by Act of Parliament—33 & 34 Vic. c. 51 (1870)—the Act of 1837 was repealed and declared never to have applied to or been enforced in the Island. Such Act was passed on an understanding with the Imperial Government that the Legislature of the Island should consider the subject; and consequently the Act of 1872 was passed by such Legislature.

would probably have shewn who were the members thereof at the time of the revestment.

Upon inquiry, we found no such minutes or journals had ever been kept.

"The Act of 1734, as to providing houses of residence for rectors and vicars, affects the Crown as patron of thirteen parishes, inasmuch as by it, of the outlay borne by the incumbent in possession, his successor on appointment has to reimburse him two-thirds, such successor having the right to receive from his next successor, on his appointment, one-third of the original outlay.

"With regard to the temporalities of the Bishopric, the following Acts have been passed by the Insular Legislature:—

- "1.—In 1832 an Act to enable the Bishop to grant leases of mines of lead, iron, and other ores in the Bishop's Barony, to bind his successors. By this Act the whole profits realized were given to the Bishop for the time being.
- "2.—By the Act for the Commutation of Tithes passed in 1839, the tithes of the Crown, Bishop, and Clergy were commuted, and out of the Bishop's tithes a number of poor vicarages were augmented, the Bishop's proportion of the tithe rent charges of the Island being fixed at £1,515 and the Crown proportion at £525.
- "3.—In 1842 an Act was passed, confirming agreements of letting for a term of years of glebe lands of the Bishop.
- "4.—By the Act for ascertaining and defining certain rights of ecclesiastical persons, &c., passed in 1844, new arrangements were made as to the apportionment of the tithe rent charge, valuation of crops, &c., on the death of a Bishop or other avoidance of the see, and the former rights of the Crown to the temporalities during a vacancy were affected.
- "5.—In 1855 was passed an Act for confirming agreements as to lettings of glebe lands of the Bishop, and for providing for the future leasing of such lands.
- "6.—By Act passed in 1855, the Bishop was authorized to mortgage the temporalities of the see for thirty years, to the extent of £2,000, to provide for repairs and improvements at Bishop's Court, the residence of the Bishop.
- "7.—By Act passed in 1860, the like authority was given to the Bishop to raise a further sum of £1,000 for the same purposes.
- "8.—And in 1868 was passed the Bishop's Mines and Quarries Act, by which the Act of 1832 was repealed, and provision made for the letting, with the consent of trustees, constituted by the Act, of the Bishop's Mines and Quarries, all rents and profits being paid to the trustees. The appropriation of the fund arising from the profits is thus provided for:—During the incumbency of the present Bishop—£500, so far as the profits extend, to be paid to him yearly, and also one moiety of the excess above such £500, such moiety not to exceed £500, and the surplus to be invested; but the produce of investments to be considered as profits, to make up in any year the £500 and moiety payable to the present Bishop. And after the incumbency of the present Bishop, the produce of investments to be settled according to a scheme to be made by the Governor and Bishop, and approved by her Majesty in the application of a moiety of the annual produce, to make up a yearly sum of £500 to the Bishop, and otherwise in the augmentation of benefices, and in providing a fund for the benefit of curates serving in the diocese.

"It is thus seen that the Insular Legislature has hitherto exercised full control over the temporalities of the Bishop and Clergy within the Isle, and jurisdiction as to the regulation of what may be called the external affairs of

Thinking that some light might be derived from the form Appendix,
(C.)
No. 12, 13. of the oaths administered to the several officers, either admitted or alledged to have composed this last-mentioned council, we have annexed them in the Appendix ; and thereby it appears that

the Church in the Isle of Man—as the Established Church of the Island—in much the same manner as such control and jurisdiction are exercised by the Parliament in England.

" Assuming that Acts of Parliament may extend to the Isle of Man if specially named, it has next to be considered whether the Acts of the Insular Legislature are inconsistent with, in derogation of, or contrary to any Act of Parliament.

" The Act of 33 Henry VIII., c. 31, as to the transfer of the bishopric from the jurisdiction of Canterbury to that of York, has no bearing on the question of legislation, and it does not affect in anywise the ecclesiastical law of the Island, further than that the metropolitan jurisdiction was to be exercised by the Archbishop of York.

" In 1836 was passed the Act 6 & 7 William IV., c. 77, for carrying into effect reports of Commissioners appointed to consider the state of the Established Church in England and Wales, so far as relates to episcopal dioceses revenue and patronage. The Isle of Man was not comprised in the commission, but the Commissioners recommended the union of the sees of Carlisle and Sodor and Man ; and the Act authorised the carrying out the recommendations of the Commissioners by means of schemes, to be laid before, and approved by, the King in Council, by the Ecclesiastical Commissioners for England, constituted and incorporated by the Act.

" In 1838, by the Act 1 & 2 Vic., c. 30, it was declared that the Act of 1836 should not extend to the see of Sodor and Man, or any part thereof, and that the Act, so far as it related to or affected the see of Sodor and Man, should be repealed.

" In 1842 and 1858 were passed two Acts of Parliament, 5 & 6 Vic., c. 108, and 21 & 22 Vic., c. 57, which were declared to extend to the Isle of Man. By these Acts provision was made for the letting of the lands of Ecclesiastical Corporations, and the improved values were to be paid to the Ecclesiastical Commissioners, who were empowered to apply such improved values in the augmentation of benefices, under a former Act which did not extend to the Isle of Man. The effect of these Acts, if carried out, would have been to augment English livings out of Manx church temporalities, the church in the Island obtaining no benefit. These Acts may possibly have come in conflict with Acts passed by the Insular Legislature ; but in 1866, by the Act 29 & 30 Vic., c. 81, the Acts of 1842 and 1858 were declared not to extend or apply to the Isle of Man.

" The only other Acts which have any bearing on the question are the Bishop's Resignation Act, 1869 (32 & 33 Vic., c. 111), continued in 1872 (by 35 & 36 Vic., c. 40), and made perpetual in 1875 (by 38 Vic., c. 19.) The Act of 1869 applies to the see of Sodor and Man, by providing that, on the resignation of a bishop of such see, he may receive a yearly pension of £1,000, such yearly pension or sum to be a first charge on the income of the Bishop of the see. It is apprehended that such possible charge on the income cannot affect the powers of the Insular Legislature, to deal with the temporalities of the see. But it is not likely that the royal assent would be given to any Act by which the income of the Bishop would be so far reduced as not to leave a suitable maintenance for the Bishop ; and, in any case, the existing charges on the temporalities, whether created by Act of Parliament or Act of Tynwald, would, of course, be considered in any legislation affecting such temporalities. The charges under the Insular Acts of 1855 and 1860 are still in force.

Appendix, C.)
No. 14, 15. the Bishop and Archdeacon "were to maintain and defend
 "the ancient laws, statutes, and customs of the Isle, and
 "with their best advice and counsel to be aiding and assist-
 "ing to the Captain of the Isle or Governor for the time

"There is nothing in the Acts which authorizes the purchase by the Crown
 of the various rights of the former lords, both before and after the revestment
 of 1765, which in any manner withdraws, or can be construed to withdraw from
 the jurisdiction of the Insular Legislature, the property surrendered to the
 Crown; and it has never been declared or held by Parliament, or by judicial
 determination, that property or rights of the Crown, within the Isle of Man,
 cannot be the subject of legislation by the Legislature of the Island. The
 practice of the Insular Legislature, both before and since 1765, has herein been
 shown to be to the contrary.

"The land revenues of the Crown acquired from the Duke of Athole, in
 1826 and 1827, as hereinbefore stated, were in 1829 by Act of Parliament
 (10 George IV., c. 50) placed under the management of the Commissioners of
 Woods and Forests and Land Revenues. It would not now be competent for
 the Insular Legislature to enact powers of management inconsistent with those
 prescribed by Act of Parliament; but even as to the land revenues and property
 of the Crown, under the management of the Commissioners of Woods, Acts
 have since 1829 been passed by the Insular Legislature, the subjects of legislation
 not being in conflict with the provisions of any Act of Parliament. No
 Act of Parliament has been passed for managing the church temporalities in
 the Isle of Man, except those of 1842 and 1858, already referred to, and they,
 as before stated, were by the Act of 1866 declared not to extend or apply to the
 Isle of Man.

"The Lieutenant-Governor of the Isle of Man lately applied to the
 Secretary of State for the Home Department to obtain the consent of the Crown
 for the introduction of a Bill into the Insular Legislature to make provision to
 the effect that any future appointment to the Bishopric of Sodor and Man shall
 be subject to such measures as may be enacted by Tynwald for the re-arrange-
 ment of the episcopal revenues, and the application of part of such revenues for
 the augmentation of livings; and also to provide, in case of the union of the
 see with any other see in England, what yearly amount shall be paid to the
 Bishop of the United See from the Manx episcopal revenues. The matter was,
 by the Secretary of State, referred to the Attorney and Solicitor General of
 England for their opinion. The opinion which they gave was as follows:—

- "1. 'The temporalities of the see of Sodor and Man in the case of a vacancy
 would belong to her Majesty, by virtue of her prerogative in Church
 matters, and, therefore, the proposed Bill will affect the prerogative.'
- "2. 'We do not think the Insular Legislature have power, even with the con-
 sent of the Crown, to pass a measure for the re-distribution and re-
 arrangement of the revenues of the see after the next avoidance. We
 may remark, moreover, that the contemplated arrangement will have
 reference to some English Bishoprics as well as the see of Sodor and Man.'

"It is manifest, therefore, that it will require the sanction of an Act
 of the Imperial Legislature."

"Possibly the law officers had not before them the information given
 herein. It is admitted that the union of the see of Sodor and Man with an
 English, or part of an English, diocese could not be effected, except by Act of
 Parliament; and it is not proposed to lay such a Bill before the Insular Legis-
 lature. The Bill proposed is one merely to keep open the power of legislating
 as to the temporalities of the see after the next avoidance without obtaining
 the consent of the new Bishop. An Act similar in principle was passed as to
 the Vicarage of Braddan in 1847. And as to the re-distribution and re-arrange-
 ment of the episcopal revenues, Acts for the like object were passed in 1839
 and 1868.

" being, for furtherance of the government and benefit of the Isle;" and that the official and vicars-general " were to maintain and defend the ancient laws, statutes, and customs of the Isle, and with their best advice and counsel to

Appendix,
(C.)
No. 16, 17.
— 18, 19.

"With reference to the points on which the Attorney and Solicitor General have expressed their opinion, it may be remarked as follows:—

- "1. The prerogative of the Crown is not necessarily, and, as a matter of fact, is not the same in all parts of her Majesty's dominions. It is not the same in all respects in England and the Isle of Man.

"The prerogative of the Crown in England, or in the United Kingdom, may be, and the exercise of it has been, affected by Act of Parliament.

"There is no known law or custom by which the Legislature of any dominion of the Crown, having otherwise unlimited powers, and not subject to express limitation in this respect, is incapacitated from legislating in matters affecting the prerogative or rights of the Crown within the dominion, or by which legislation on such subjects is reserved for or devolved upon the Imperial Legislature only. The powers of some of the legislative bodies within the dominions of the Crown beyond the United Kingdom have been limited either by the charters constituting such bodies, or by Acts of the Imperial Parliament, and in most of such dominions the legislative authority is exercised under constitutions granted within the present century. But the Legislature of the Isle of Man—a distinct kingdom—has existed substantially in its present form from (it may be truly said) time immemorial; certainly from a time long anterior to any connection of the Island with England. No alteration in such Legislature or in the constitution of the Island has ever been effected through or by virtue of any action on the part of the Crown or Parliament of England.

"The Acts of Parliament relating to the surrender of the sovereign and other rights of the former lords to the Crown of England do not expressly or impliedly limit or restrain the powers of the Insular Legislature; and with reference to all such rights the effect of these Acts, so far as they are applicable to the Legislature and people of the Island, is but to substitute the Crown of England for the former kings or lords. It is on this view that the government of the Island has been administered, and that legislation within the Island has proceeded, since the revestment in 1765.

"In the Isle of Man the legislative authority, whether in relation to the sovereign, the people, or property, has been from ancient times unlimited in its operation, save only when (since the connection with England—and the saving as hereinbefore shown rests on a slender foundation in a legal point of view), the exercise of such authority would be in conflict with an Act of Parliament expressly extending to the Island.

"But, irrespective of precedents in former legislation, and in the absence of express restriction as to the extent or power of legislation, it must be presumed that the powers of a legislature of a country, and especially when such country is an ancient kingdom or sovereignty, are unlimited and supreme in all matters within or affecting the country.

- "2. The temporalities of the see of Sodor and Man being within the Isle of Man, and being applicable to a diocese which embraces the Isle of Man only, and legislation as to such temporalities not being restrained or affected by any Act of Parliament extending to the Island, the Insular Legislature has and in fact must have power to deal with such temporalities as with other property in the Island. As hereinbefore shown, it has on former occasions passed measures affecting these temporalities by redistributing and re-arranging the revenues arising therefrom; and it has frequently passed measures affecting other ecclesiastical temporalities in which the Crown was interested. Then, if the Insular Legislature had

" be aiding and assisting to the Captain and Governor or
 " Deputy-Governor of the Isle for the time being, for the
 " furtherance of the government and benefit of the Isle, as
 " oft as they should be called upon or required so to do."

That the Attorney-General, Comptroller, Clerk of the Rolls,
 Appendix
 (C.)
 No. 20, 21,
 22.
 — 23, 24.
 No. 25, 26,
 27, 28, 29.
 " were with their best advice and
 " counsel to aid and assist the Lieutenant, Captain, and the
 " rest of the Council, so oft as was needful, or so often as
 " they should be called upon by them, or any of them, for
 " the furtherance of the government;" and that the oaths
 administered to the deemsters and water bailiff have not any
 relation to advice or assistance to the Governor and Council.

power to pass such measures—measures which are now in operation—it must have, of course, the power to pass a measure such as that now proposed, namely, to save the right to legislate after the next avoidance of the see, and after the appointment of another Bishop.

" If the opinion of the Attorney and Solicitor General be correct, then all Insular legislation in relation to Church temporalities in which the Crown is interested, at any rate since 1765, must be void. Amongst the measures which would be nugatory is the Act for the Commutation of Tithes, which has been in operation since 1839, and by which not only were the tithes of the Bishop and clergy, but those also of the Crown, commuted. The confusion which would result, if the opinion was established as good law, is incalculable.

" This statement has been drawn up for the re-consideration of the matter by the Attorney and Solicitor General. Irrespective of the particular subject as to which legislation is now sought, the questions raised materially affect the position and powers of the Insular Legislature."

" J. GELL,

" Attorney-General for the Isle of Man."

" Castletown, Isle of Man, 7th October, 1876."

The foregoing case having been laid before the before-named law officers for their reconsideration of the matter, they gave a second opinion as follows:—

" After carefully considering the Memorandum of the Attorney-General for the Isle of Man, and the arguments advanced by him in consultation with us, we are led to the conclusion that the Insular Legislature have power to pass a measure for re-arranging the revenues of the see of Sodor and Man, if the operation of such measure is confined to that object, and it is not made to affect, even indirectly, any English Bishopric."

" JOHN HOLKEE,
 " HARDINGE GIFFARD."

" 6, Crown Office Row, Temple, December 30, 1876."

The result was that the matter was dealt with entirely by the Insular Legislature, which passed the necessary Act, "The Bishop's Temporalities Act, 1878."

The several courts of judicature in the Island are the next objects of our consideration ; but as many of them are materially connected with the local divisions of the Island, it will here be proper shortly to observe, that the principal division of the country is into two districts, the Northern and Southern, six Sheadings, and seventeen Parishes ; and that each of the sheadings comprise three parishes, except one called Glanfaba, which contains only two.⁸

There are four inferior Baronies in the Island ; namely, the Bishop's Barony, that of the Abbey of Rushen, that of Bangor and Sabal, and that of St. Trinian's.⁹

From a very remote period the Island has had the several courts of judicature hereinafter described ; but many of them were not so properly distinct courts (although so termed), as the same court or persons acting in different situations, and upon different subjects.

The Governor, as the representative of the Lord Proprietor, was by an ancient rule of law authorized to hold cognizance of all pleas, civil or criminal, and, with the other chief officers, seems to have formed originally a kind of supreme court, which assumed an universal jurisdiction.

It is in this light, probably, they are considered, when denominated by a term which was anciently, and is at present

* By the Act of 1796 for the better regulation of the Court of Common Law, the ancient arrangement of the parishes into sheadings and districts was altered to that at present existing. German, Patrick, and Marown were constituted the Sheading of Glanfaba, to all intents and purposes ; Conchan, Braddan, and Santon, the Sheading of Middle ; and Malew, Rushen, and Arbory, the Sheading of Rushen, and these three sheadings were constituted the Southern District of the Island ; Lonan and Maughold were constituted the Sheading of Garff, and this sheading, with those of Michael and Ayre, were constituted the Northern District. Previously Conchan belonged to Garff, and Marown to Middle.

⁹ There is also the small freehold barony in Maughold, called the Barony of the Hough, containing about 420 acres. It formerly belonged to the Priory of St. Bees, in Cumberland—(see Mills' Statutes, p. 8)—but has for many generations belonged to the family of the Christians of Milntown. The number of the customary tenants was too small to make up a Setting Quest, the principal portion of the barony consisting of the demesne lands in the hands of the lord of the barony.

frequently, applied to them, "The Staff of Government," under which title they were and are yet resorted to by a petition of doleance, in cases where adequate relief cannot be otherwise obtained.

The courts of judicature in the Island are those of civil, of ecclesiastical, and of criminal jurisdiction, and in that order will be briefly mentioned.

Of the courts of civil jurisdiction, the first to be noticed is the Court of Chancery, where the Governor presided as Chancellor, assisted by the deemsters and such of his council as he thought proper to summon.¹⁰

This court had a mixed jurisdiction in matters of law and equity, and was more frequently resorted to in the latter, than the former capacity. It is said to have had its origin in the power of granting arrests of the person and effects, which in civil cases belonged to the Governor alone.¹¹

Causes commenced in this way, were termed common actions, which brought the suitors into the Court of Chancery; the causes so brought were afterwards, as the parties chose, or the Governor ordered, either retained to be determined in the last-mentioned court, or transmitted to some other jurisdiction.

¹⁰ By "An Act recognizing the power of the Court of Chancery to regulate its own proceedings," passed in 1777, the Court of Chancery has full power to make such rules and orders from time to time touching its own practice and proceedings, and for the better conduct of suitors and practitioners, as shall be found expedient.

¹¹ The Manx Court of Chancery has exercised a more extensive power of granting arrests than that claimed by the English Court of Chancery with respect to its writ of *ne exeat regno*. On affidavit that a debtor is about to leave the Island, an arrest enforceable against his body and estate can be obtained from the Manx Court, and a similar arrest can be obtained against the estate of a non-resident defendant on affidavit that he is absent from the Island. These arrests are granted on what are termed in the text common actions, and are also granted on special actions for unliquidated damages. Before August, 1846, strangers resident in the Island were liable to arrest on *meme* process on affidavit that they were not natives, but the ownership of a quarterland or of intack land of £3 lord's rent gave them the privileges of natives. This liability of strangers was abolished by the Act of Tynwald of August, 1846.

Suits were likewise instituted before the Governor, in his capacity of Chancellor, where, from different circumstances, full redress could not be obtained in the other courts of judicature. When recourse was had to this judicatory, as a court of equity, the complaint was generally by a sort of bill, very loosely drawn; but it was not till a very few years before the revestment, that the defendant was compelled to answer upon oath, and even then his answer was frequently taken without being put into writing. The witnesses were sometimes examined out of court by the attorneys for the parties, in the presence of the Clerk of the Rolls, who reduced the depositions to writing, and returned them to the Chancellor. At other times the witnesses were examined in court, and their depositions were sometimes reduced into writing, and at other times they were not.¹²

If the Governor thought any particular case required the intervention of a jury, he directed one to be impanelled, to examine into the matters out of court, and then return their verdict to him.¹³

This court sat regularly once every month, except January, May, September, and October, and occasionally at other times, and the records of its proceedings were kept by the Clerk of the Rolls.¹⁴

Immediately after the Court of Chancery, was usually held the Court of Exchequer, in which likewise the Governor

¹² At present the proceedings are by bill and answer, plea or demurser, and its practice is similar in many respects to that of the English Chancery Court, previous to its modern alterations. Many applications are disposed of in a summary way on petition.

¹³ The practice of directing an issue to be tried by a Deemster and a jury is still continued.

¹⁴ The regular courts are held monthly, except in the months of January, August, and September. Special Courts are, however, frequently held.

presided, with the assistance of such of the Council as he thought proper to summon.¹⁵

This court took cognizance of all disputes, or offences relating to the Lord's revenue, rights, or prerogatives; and here were carried on the prosecutions for the recovery of penalties incurred by frauds upon the customs.

This court also exercised a criminal jurisdiction over misdemeanors, and all species of wrongs, which subjected the offender to the payment of a fine to the Lord.

Like the Court of Chancery, it usually proceeded without a jury; but when the Governor thought fit, he directed one to be summoned, and took their verdict;¹⁶ the proceedings of the Court of Exchequer were registered in the *Liber Scaccarii*.

¹⁵ The following Act for regulating the proceedings in the Court of Exchequer, was passed in 1777:—“Whereas all disputes respecting the rights of the Crown, the imposing of fines, and the recovering of debts or duties due to the sovereign, and the determining the right of tithes, being properly cognizable in the Court of Exchequer, be it enacted by the authority aforesaid, That hereafter the said Court shall be regularly held on the day after every Chancery Court, or immediately after on the same day (if the Governor or Lieutenant-Governor shall see proper), to hear and determine all suits thereto appertaining; and that his Majesty's Attorney-General for the time being shall in the first instance prosecute all offenders in revenue matters by summons or process in the nature of a writ of capias, praying an arrest against the person of the defendant, which capias is returnable at the next Court to be held after the issuing thereof (three days being allowed between the service and such return); and when any offender shall thereupon be apprehended, or being apprehended, shall have given bail for his personal appearance, the Attorney-General shall, before the second Court, file an information setting forth the cause of suit (of which information being filed, three days notice shall be given to the defendant or his attorney before such second Court), requiring the defendant to appear and plead thereto at such second Court, and in default of such appearance judgment and execution shall go against defendant's person and effects. And at such second Court the suit shall be heard and determined, unless sufficient cause (to be approved of by the Court) shall be shown to the contrary. And the Governor or Lieutenant-Governor is hereby empowered to make such rules and orders from time to time for the better regulating the practice and proceedings of the said Court as occasion shall require, any law, custom, or usage to the contrary hereof in anywise notwithstanding.”

¹⁶ In the appeal case of the Attorney-General of the Isle of Man v. Cowley and Kinrade, decided by the Judicial Committee of the Privy Council on the 1st July, 1859 (Moore's P. C. Reports), the power of the Court of Exchequer to direct a trial by jury being disputed, it was expressly decided that it still existed, and had not become obsolete by disuse.

From the decision of the two preceding courts, an appeal lay to the Lord Proprietor,¹⁷ without any limitation with respect to the amount of the matter in dispute, on the appellant's entering into a bond, in one hundred pounds penalty, for prosecution of the appeal within six months.

The Common Law Courts, the style of which was, "Before the Governor and all the chief officers and deemsters," were held by these officers at different places for different sheadings.¹⁸

¹⁷ The Act of Tynwald of 24th June, 1737, s. 10, enacts—"That any person or persons who now have or hereafter shall have any appeal, or cause of appeal, from any decree, order, sentence, judgment, or proceeding of any of the courts or magistrates of this Isle whatsoever, or from the Keys to any superior judge of appeals, shall and are hereby obliged to prefer his or their appeal or appeals for acceptance, and enter into bonds thereon in order to an effectual prosecution, within six months after the decree, order, or sentence is made or given against them, or any of them, otherwise they and all persons claiming under them to be excluded and barred (whether plaintiff or defendant) from the benefit of any appeal for ever after, any law, custom, usage, or practice to the contrary in any wise notwithstanding." The "six months" has always been held to apply to the presenting of the appeal and entering into bonds only, and has no reference to the subsequent prosecution, respecting which a further time is sometimes limited in the acceptance, and the amount of the bond is fixed by the judge in the acceptance, and varies according to the nature of the case.

Prior to the revestment an appeal lay from the Lord of the Island to the King in Council (*Christian v. Corrin*, 1 Peere Williams 329.) Since then the appeals from the Chancery and Exchequer Courts are to the Queen in Council direct. The statement in the text as to the non-existence of any limitation with respect to the amount in dispute is inconsistent with the case of *Bankes v. Lockhart*, the lord's forester, printed in the Appendix A., No. 78. Bankes, of Howstrake, in Conchan, being fined for killing a hare on a neighbour's customary estate, in order to try the lord's claim to the game, presented his petition of appeal to Governor Cochrane, intending to appeal to the Lord of the Island himself. The Governor refused to accept the appeal, and made the following order:—

"Forasmuch as the Right Honourable Charles, Earl of Derby, late lord of this Isle, in order to prevent the abuse made of appeals by contentious persons, to the great vexation of the subject and delay of justice, did, by his lordship's order, remaining on record in the year 1666, enact and declare, That no appeals should be thereafter received or accepted by any Governor or Deputy-Governor of this Isle upon trivial occasions, or any matter of business under five pounds, and other restrictions therein mentioned; which said order hath ever since been the standing rule and constant practice within this Isle, and, therefore, I cannot accept the above-written appeal."

"BASIL COCHRANE."

"Given at Castle Rushen this 21st of March, 1757."

¹⁸ By the Act of July, 1793, for regulating the proceedings of the Court of Common Law, the Governor may preside by a Deemster. Since then the courts for trial of causes have been always (except in some special cases), presided over by a Deemster, and whenever objections to his ruling as to any questions of law or evidence are made, they are heard by the Full Court, consisting of the Governor, and officers, as stated in the text. The regular Common

The circuit to these places was made, and the Common Law Courts were held, in the months of May and October, and a distinct day was assigned for the business of each sheading.

These may be considered as Courts of common pleas, where all causes between subject and subject were regularly cognizable, unless carried by consent of the parties, or for some special reason, to courts more expeditious in their process, or higher in authority.

Here, therefore, were tried all kinds of actions, whether personal or real.

In these courts the trial was by jury, which consisted of six men of the sheading in which the lands lay, in case of real actions; and of four belonging to the parish where the defendant lived, in actions personal.¹⁹

When the plaintiff and defendant appeared in court, the jury were sworn, and directed to examine the witnesses to be produced, which they were permitted to do at their leisure, out of court, and to deliver their verdict to the court at its next meeting, or sooner, to one of the deemsters, if convenient to themselves, or thereto particularly required.

The verdict, when delivered, was to be accompanied by an account, in writing, of the evidence; and being received

Law Courts are held:—for the Southern District, in Hilary term, beginning on the Tuesday following the first Thursday in February; in Easter term, beginning on Tuesday following the first Thursday in May; in Trinity term, beginning on Tuesday next after the last Thursday in June; and in Michaelmas term, beginning on Tuesday following the fifth of October. The courts for the Northern District are held on the Tuesdays following the days fixed for the Southern courts. They are no longer held at different places and times for different sheadings, but at one place and time for each district.

¹⁹ At present the jury is taken from the list of the whole district, and both real and personal actions are tried by a jury of six. When the jury is sworn, the cause proceeds at once, unless a view is required, and the evidence is taken under the direction of the Deemster, and the jury cannot separate until the case is disposed of, except for adjournments fixed by the Deemster. When they have agreed in their verdict it is delivered to the Deemster, and recorded with the other proceedings in the cause in the Rolls Office.

(which it would not be unless unanimously agreed to by the jury), was recorded by the court, and if the parties acquiesced an order for carrying it into execution was given accordingly, which was final.

But either party, apprehending himself aggrieved by the verdict, might, on application to the Clerk of the Rolls within a limited time, and entering into a recognizance, traverse the verdict, and obtain a new trial of the cause by another jury, consisting of twelve in real, and of six in personal actions; the mode of whose selection and proceedings was similar to that of the former jury, excepting that they were to determine according to the evidence previously taken.²⁰

²⁰ The appellate jurisdiction of the House of Keys being abolished by the House of Keys Election Act, 1866, traverses from verdicts at Common Law are now regulated by the Appellate Jurisdiction Act, 1867. By that Act the verdicts of juries at Common Law, and of the Great Enquests, and all verdicts of juries in the Exchequer traversable by law, may be traversed, by entering a traverse within twenty-one days from the recording of the verdicts. The traverser is required to enter into bonds, as near as may be according to the provisions of the Acts requiring security for appeals passed in 1847 and 1850. The traverse thus entered is heard on the petition of either party by the Court of Common Law sitting without a jury, and presided over by the Governor.

Sec. 3 of the Appellate Jurisdiction Act 1867 provides that on such hearing "the Court may (except as to the admission or rejection of evidence) review the proceedings at the trial, and determine all matters of law which may have arisen thereat, including any determination or ruling of the judge who presided at the trial, and the directions given to, or the questions submitted by the judge for the consideration of the jury; and such determination of the Court shall, subject to the right of appeal as hereinafter mentioned, be final and conclusive; and should any question of fact, or any question as to amount of damages then remain between the parties, the Court shall, upon the application of the traverser, order a new trial, and such new trial shall be had upon the evidence adduced at the former trial without recalling the witnesses; or may order judgment to be entered for either party as the case may be; and also may make such order with respect to the costs, including in the case of a new trial the costs of the former trial, as the Court may think proper; and such new trial may be had in either district before a jury of twelve men, taken from the special jury list of any of the shadings, as the Court may order. Provided always that nothing herein contained shall empower the Court, without a new trial or unless by consent of parties, to alter, vary, or reverse a verdict as to the amount of damages, or as to the finding of the jury on matters of fact only, or to estimate damages where no damages have been found by the jury, and in the case of a traverse from a verdict of a Great Enquest, the new trial if ordered shall in all cases be held before a Deemster and a jury of twelve men, to be taken from the special jury list, either of the shading where the venue may be, or of such other shading as the Court shall direct. Provided also, that nothing herein contained shall be construed to affect the power of any Court to order a new trial, or to decide questions of

If the second verdict was not satisfactory, another traverse was allowed to the Keys, and they, or the second jury, might either affirm, reverse, or alter the verdict before them, and, if they found reason, condemn the prior jurors to be amerced.

The Courts of Common Law are also stated to have entertained cognizance of such assaults as were denominated bloodwipes, in which case the trial was by a jury of six from the parish where the party lived, and a fine of sixpence was the penalty, with costs.

When the business of the Common Law Court was finished, the Governor and officers who composed it, sat as a Manerial Court, commonly known by the name of the Sheading Court, which was held at the same times and places, and for the same districts, as the Common Law Courts.²¹

law reserved, or to arrest judgment in all cases where such power has hitherto existed."

Section 5 enacts—"The Court shall not on hearing a traverse consider any questions as to any determination, ruling, or direction of the judge at the trial, in matter of law, unless the points or questions objected or excepted to be stated in the form of a case in writing agreed to by both parties or their advocates, or in case of their disagreement to be settled by the judge presiding at the trial, and signed by him, and filed with the proceedings in the cause or suit at least three days before the hearing of the traverse."

Section 6 enacts—"Any party aggrieved by any judgment of the Court, or by a verdict of a traverse jury under this Act, may appeal to her Majesty in Council in the manner usual as to other appeals."

Section 7 enacts—"Nothing herein contained shall be construed to take away or diminish the power and authority heretofore by law vested in the Staff of Government."

Section 8 enacts that the provisions of the Act of 1737, whereby certain cases of fraud respecting titles to real estate were directed to be inquired into by six of the Keys, are repealed, and the matters referred to were to be dealt with by the Chancery Court.

The law regulating the security to be given in cases of appeals and traverses is contained in the Act of 1847, intituled "An Act to compel parties preferring on appeal a traverse from the verdict of a jury at Common Law to give security for the amount of such verdict, together with the costs of such appeal," and the Act to amend that Act passed in 1850.

²¹ The manorial business which, according to the text, was brought on in the Sheading Courts after the conclusion of the business of the Common Law Courts, is now transacted in the Courts Baron, presided over by the Seneschal of Her Majesty. They are held at such times as may be fixed by him after public notice. They are generally held about April and October in each year. The Manorial Courts for the Baronies, which are all now vested in the Crown (except the Bishop's Barony and the Maughold Barony), are held by the same officer along with the other Courts Baron. The Court for the Bishops Barony is held by his Steward, but the number of customary tenants in the Maughold Barony being too small to form a jury no Court has ever been held for it.

In the Manorial and Sheading Courts was kept the registry of the names and titles of the Lord's tenants ; and upon every change of tenant, by death or alienation, the name of the new one was entered, and that of the former withdrawn, upon the presentment of a jury, termed the Setting Quest.

From their affinity with the last-mentioned courts, it may be proper here to notice (though they have only a limited local jurisdiction) the Manorial Courts held in and for the before-mentioned four several inferior Baronies or Manors.

These courts were conducted by the proprietors of these manors, or their stewards, with the assistance of one of the Deemsters, and the Comptroller and Clerk of the Rolls, who received a compensation for their attendance, and the Attorney and Receiver-General were occasionally present.

These courts seem to have exercised an authority in their several districts, equal to the whole of that possessed by the Common Law and Sheading Courts, performing the business of Courts Baron in the admission and enrolment of tenants, by means of peculiar Setting Quests of their own, and taking cognizance, likewise, in a manner similar to the mode of procedure in the Common Law Courts, and with the like traverse to a second jury and the Keys, of all actions of whatever kind, where the defendant belonged to the respective baronies.²²

These inferior baronies had also their courts of Criminal Judicature, in which all felonies committed by persons resident in any of these baronies, who were not tenants to the Lord Proprietor, were cognizable, and tried by a jury of twelve men, selected from the tenants of the barony, in the same manner that other felonies were in the Court of General Gaol Delivery, hereinafter described.

²² The business of the Courts Baron is now entirely confined to manorial matters, such as the entries and admissions of tenants, the appointment of moars of the Lord's lands, and the serjeants of the Baronies, and such like. The cognizance of actions between tenants, and of felonies committed by tenants, which was formerly within the jurisdiction of the Courts of the Barony, is now vested in the general common law and criminal courts of the Island.

In addition to the before-mentioned several courts of judicature, the Island had, previous to the year 1765, two courts of general jurisdiction, in a great measure peculiar to that country; that is to say, the two Deemsters' Courts, one of which was generally held in the Northern, and the other in the Southern district of the Island.

These courts sat more frequently, and were more generally resorted to than any of those which have been before described.²³

In each of these, one of the deemsters alone presided, and had power to decide all causes brought before him, in a summary way, without the intervention of a jury, according to the traditional and unwritten laws of the land, there termed Breast Laws.

The Deemsters' Courts had, in civil cases, a concurrent jurisdiction with the Common Law Courts, in all actions of whatever nature, wherein a trial by jury or before a higher authority was not desired by the parties, or commanded by the Governor. Criminal cases also, in which any specific fine or penalty was directed by any statute, the Deemsters might, in the same summary way, take cognizance of, and order the fine to be levied, or inflict such other punishment as the law appointed.²⁴

In matters too both civil and criminal, where a jury was required, but where immediate or speedy redress was necessary,

²³ The Deemsters Courts continue to be more generally resorted to than any of the other Courts of the Island.

²⁴ The jurisdiction of the Deemsters Courts is very extensive. Although the title to lands cannot be tried in these Courts, suits for possession are entertained, and these suits are either finally decided or referred to the Common Law Court, or decided without prejudice to the parties proceeding as to the title in other Courts. Suits to be quieted in possession of lands or in rights of easements, to have nuisances abated, or to have injuries to lands repaired or made good, are entertained. If instead of specific relief unliquidated damages are sought to be recovered, the case is triable in the Common Law Court before a jury, except that in cases involving small amounts the Deemster frequently deals with unliquidated damages. Specific performance of contracts is also enforced there. The power of proceeding by injunction either *pendente lite*, or as a final judgment is also exercised. At present all proceedings in bankruptcy are brought before this Court. The jurisdiction exercised by the Deemster is so extensive that it is difficult exactly to define its limits.

the Deemster had the power of impanelling juries and receiving their verdicts,²⁵ and if thereby the damage or penalty was precisely ascertained, might order the payment of the one, or inflict the other ; and in case of non-compliance with such orders, the disobedient party was left to be amerced by the Governor in Council, or tried in the courts of General Gaol Delivery.

The Deemsters also took inquests of felonies, by a jury of six, as hereafter stated ; but the juries summoned by their authority in other cases, consisted of four men of the parish in which the cause of action arose.

The jurisdiction of both Deemsters was perfectly similar, and extended throughout the Island, although they usually exercised their authority each within the Northern or Southern division of the Isle in which he resided ; but they occasionally acted within each other's districts.

The Deemsters' Courts were held one day in every week, or oftener if business required ; and, in civil cases, an appeal lay from their decisions to the Governor and Council, if presented within a limited time, and accepted by the Deemster from whose judgment it was preferred, upon the appellant's entering into a bond in Three Pounds penalty, to prosecute the appeal in three months ; and this appeal might be further carried on from the Governor and Council to the Lord Proprietor.²⁶

For all causes of action or misdemeanors happening below full sea-mark, the proper] judicatory was the Court of the

²⁵ The power of summoning a jury to sit in this court to try a cause pending in it is now never exercised, but it is conceived that the power has not become obsolete by disuse (Attorney-General v. Cowley and Kinrade, M. P. C.) Particular issues are frequently referred by the Deemster to a jury of skilled persons, such as questions respecting the state of repair of buildings or lands, and the cost of repairing them. In such cases the jury proceeds by view out of Court, and the verdict being returned to the Deemster in the Court, he acts on the facts reported by the jury.

²⁶ The appeal from the Deemster is to the Staff of Government, from which the appeal is to her Majesty in Council. The Deemster fixes the amount of the bond according to the circumstances of the case. The appeal must be brought within six months from the making of the judgment.

Water-Bailiff, who was stiled also Admiral ; and the limits of his jurisdiction are said to have been, the high-water mark on the one hand, and the distance of three leagues from the shore on the other.²⁷

Whatever disputes or offences less than capital occurred within these bounds, the Water-Bailiff was to take cognizance of, and for that purpose held courts, impanelled juries, consisting of six men, and having received their verdicts, decided according to the law of the land.

This officer had also jurisdiction in all causes respecting maritime affairs, which were to be tried before him by a sort of special jury of merchants or seafaring men ; an appeal lay from his judgment to the Governor and Council, and from thence to the Lord Proprietor.²⁸

The spiritual courts in the Island are stated by the Attorney-General to have been the Consistory Courts, which were held alternately by the Bishop or his Vicars-General for one half the year, and by the Archdeacon or his official for the other half;²⁹ and to have acquired and retained more extensive powers than the English ecclesiastical tribunals : in particular, that it not only belonged to them to determine the validity of wills, and to grant administrations, but that they sustained all causes respecting them, or concerning the legacies or the debts of the deceased, within one year and a day from the probate of the will, or granting of administration;³⁰ and likewise all suits against executors and administrators, as such, at any time within two years from the cause of action.

²⁷ Suits on contracts respecting maritime affairs may be tried either in the Deemster's or the Water-Bailiff's Court.

²⁸ The power of calling in a jury is exercised at the discretion of the judge.

²⁹ By the Ecclesiastical Courts Act, 1874, the judicial functions of the Archdeacon's Official are exercised by the Vicar-General who holds Constaistorial Courts and summary Ecclesiastical Courts monthly at the four towns of the Island, except during vacation time.

³⁰ And within three years for foreign debts.

That for divers offences, besides inflicting Church censures, they detained the party in the ecclesiastical prison, which was a subterraneous vault in the Castle of Peele, in order after an examination of a jury of six (whom they were authorized to impanel), to be delivered, if judged necessary, for further trial and punishment, to the temporal power; and that they not only committed to their dungeon for the purpose of such detention, but confinement there was sometimes ordered by their definitive sentence, in affairs merely spiritual;³¹ and that the appeal from those courts was to the Archbishop of York.³²

The superior court of criminal judicature in the Isle of Man, was termed the Court of General Gaol Delivery; and in this the Governor, Council, and Deemsters, with the addition of the Keys, presided; and here were tried all capital offences.³³

The prosecutions in this court were commenced and carried on upon presentments or indictments, and for frauds upon the customs, by a verbal information from the seizing officer. Whenever any indictment was exhibited, it was necessary it should be approved or found by a jury of six persons, in a manner similar to that in which bills of indictment in England

³¹ At present on non-compliance with the judgment of the Ecclesiastical judge a writ of contempt is granted by the Governor, under which the party in default is imprisoned in Castle Rushen gaol until he purges himself of his contempt to the Governor's satisfaction. There is now no ecclesiastical prison or power to commit to one.

³² The reporters here incorrectly report the Attorney-General as to appeals. His statement (Appendix C. No. 3), is "In matters merely spiritual the appeal from these Courts was to the Archbishop of York, in all others to the Governor; a vague distinction which was the source of continual disputes." On one point of jurisdiction, namely, the probate of wills, the Court to which an appeal can be brought has always been a matter of contest. The Bishops of the Island have claimed that the appeal is to the Archbishop only, and on the other hand many of the judges of the Island have held that it lies to the Staff of Government, and precedents favouring both contentions are in existence.

³³ It was decided by the Privy Council on the 19th June, 1825, on the petition of Wm. Kelly, in re *Rex v. Kelly*, that the Keys did not by the laws of the Island form an integral or constituent part of the Court of General Gaol Delivery (Bluett's Note Book, p. 499), and since then they have never been summoned to that Court. The ecclesiastical members of the Council do not now sit in this Court.

are found by the Grand Jury ; but this form was rarely pursued, almost all prosecutions being commenced by presentments on the verdicts of a jury, in writing.

For making these presentments there was a variety of inquests, some of them under the direction of the Deemsters, or supreme courts ; others impanelled and attended by the Coroners alone ; and juries, on suspicion of felony, were summoned by the Coroners in their respective shheadings, either upon what was called a hand suit, a species of bond or recognizance from a prosecutor, or by precept from one of the Deemsters or the Governor.³⁴

These juries proceeded under the direction of the Deemster, to whom their verdict was returned ; and when a charge against any person was rejected by such jury, he stood thereby acquitted.

When the felon jury found that the fact was a misdemeanor and not a capital offence, which was always the case in theft, where the thing taken away was not above the value of sixpence-halfpenny ; they presented him as guilty of such misdemeanor, and subject to suffer such punishment, by fine or imprisonment, as the Governor in Council should adjudge.

In public prosecutions as well as private causes, the judgment given was to be executed by the Coroner, with the assistance, if necessary, of such military force as the Governor should think proper to order.

No culprit could be tried in the Court of General Gaol Delivery but by jury ; and as it was necessary upon a prosecution by indictment, that his accusation should be previously

³⁴ The mode of prosecution in the Court of General Gaol Delivery is now regulated by the existing criminal statutes, forming an entirely new Criminal Code, passed since the report. No presentments are now made by juries summoned by the Coroner, or on suspicion of felony either under a Coroner's or a Deemster's authority. Many offences which were formerly tried by petty juries are now dealt with by the justices under the Petty Sessions Act, Summary Jurisdiction Act, &c.

confirmed by a jury of six, so he was to be afterwards acquitted or convicted, upon the issue of guilty or not guilty, by a jury of twelve, who must all concur in the verdict delivered.

To supply the latter jury, sixty-eight men were impanelled, by a return of the coroners of four men from each of the seventeen parishes in the Island; and out of this number the prisoner might select such twelve men as he thought proper, having the power of rejecting all the panel except that number.³⁵

When this court was assembled, and the jury fixed and sworn, the Attorney-General, on behalf of the Lord Proprietor, was to conduct the prosecution; and after the trial was finished, the prisoner's defence heard, and the jury had agreed upon their verdict, the Deemsters, or one of them, demanded of the foreman of the jury, in the Manks language, whether such of the Council as were ecclesiastics could remain in court? Upon the foreman's answer, that they could not, the ecclesiastics withdrew, and the verdict was then delivered.

Upon conviction, sentence was pronounced by one of the Deemsters; and if the Lord Proprietor was not present, a report of the trial was transmitted to him; and until his pleasure was known, the Governor respite execution.

This court was held in the Gateway of Castle Rushen, twice in the year, in the months of May and October; and the proceedings in this court, since the year 1680, have been enrolled in the *Liber placitorum*.

Prior to the year 1765, petty larcenies were tried before a jury of six persons, called a jury of inquiry, who took the evidence out of court, and returned it with their verdicts to one of the Deemsters, who procured the same to be enrolled

³⁵ At present the panel consists of seventy-two men, being twelve from each shadding, instead of four from each parish as stated in the text.

by the Clerk of the Rolls; and at the next audit court, where the Governor, his Council, and the Deemsters presided, the punishment suited to the offence was fixed.

Having thus concluded our account of the several Courts of Judicature in the Island at the time of the revestment, it may not be improper here to subjoin a further description of some of the several juries in the Island, whose names have before occurred, and whose offices and duties appear in some measure peculiar to this country ; that is to say, the Great Inquest and Setting Quest, and Juries of Trespass and Inquiry.

The Great Inquest was a jury of twelve men in each of the six sheadings, returned by the Coroner ; and these juries were upon duty for six months, after being sworn in at the several meetings of the Common Law Courts in the months of May and October.³⁶

These Inquests attended at the courts for the sheadings to which they belonged, where one of the Deemsters administered the oath to them, and delivered their charge, which in general was, to make the presentments particularly enumerated in the Manks statute-book, in an account there stated of old customs given for law in the year 1577, by the two Deemsters, and then for the first time reduced into writing by the command of the Lord Proprietor of the Island.

The verdicts and presentments of these juries were returned to the Deemsters as often as required, or to the Court of

³⁶ The Great Enquests now serve for the year, and are sworn at the October Common Law Courts. They generally return their presentments to the Common Law Court on going out of office, unless specially summoned to a Deemster's Court, but they now never return them to the Court of General Gaol Delivery.

General Gaol Delivery assembled, at the expiration of the half-year for which they had served.

The Setting Quests consisted of four of the Lord Proprietor's tenants ; and one of these juries was appointed for, and chosen out of the tenants of each parish in the Island. The principal part of their office originally was, when any lands fell to the Lord, to discover a proper person to whom they might be set, and compel him to become the tenant thereof.

They also made partition of joint estates, apportioned rents, and served as a sort of homage jury in the sheading or manerial courts, where the same business was transacted as in the courts of copyholders in England, and in a manner somewhat similar.

The time that this jury was to serve was unlimited, as the jurors continued in employ until they were relieved.³⁷

Trespass Juries and Juries of Inquiry consisted of four men, occasionally summoned by one of the Deemsters out of the parish where the trespass had been committed, or any loss sustained ; and it was their province in the one case to view and estimate the damages done, and in the other, to endeavour to discover what was lost, and the person who had taken away or concealed the same ; for which purpose the whole neighbourhood was summoned before them, and every individual

³⁷ In very ancient times in case a tenant selected by it failed to pay the Lord's rent, the Setting Quest was made liable in his stead, "for (as the old customary law expresses it), ' putting him on the rolls who hath no goods.' By ancient custom the Moar was to be of the Setting Quest the year next after being in office ; consequently it may be inferred that four years was the limit of the compulsory service of the members of the Setting Quest. The Quests still exist for each Parish and Barony, except the Hough Barony. Their principal duty at Court is to present the alienations and descents of land, and to return the names of the succeeding owners, in order to enable the entries to be made on the roll, and the alienation fines and Lord's rent to be collected, and to present the names of the persons liable to the office of Moar for each year. The Setting Quests still apportion the Lord's rent on alienations of parcels of customary lands, and (unless an equitable division is sought in the Chancery Court on special grounds), they make partition of joint estates. One peculiarity of the tenure is that on a division by the Setting Quest, or by the Chancery Court, each share vests in severalty in the party to whom it is allotted, without any conveyances being executed by the other joint owners.

was either to acquit himself by his oath, or to be held convicted by his refusal.³⁸

The verdicts and presentments thus taken, were to be transmitted by the Deemsters to the Clerk of the Rolls ; and the like traverses from these verdicts were in many instances allowed to a jury of six, and thence to the Keys, as in personal actions instituted in the Courts of Common Law.

To prevent the Commons being overstocked, there was a jury called a Fodder Jury, for every parish, consisting of four men, who were annually impanelled by the Coroners out of each parish, upon the 25th of March, and were to serve for ensuing year.³⁹

There occur likewise in the Manks statute books, provisions for some other juries, for placing servants to work, and the protection of the Lord's game.⁴⁰

But although the inhabitants of the Island thus seem to have been well aware of the advantages that might result

³⁸ The mode of proceeding for trespass described in the text still exists. The jury proceeds out of Court to view the damage and take evidence. The party against whom they intend to verdict being noticed to attend the Deemster's Court whenever they are ready to hand in their verdict, can appear and take any formal objection to the proceedings, or claim to be allowed to call evidence before the jury. The verdict is handed to the Deemster in open Court, and is traversable to a jury of six, who try the cause under the direction of the Deemster. From the verdict of the traverse jury the appeal is now under the Appellate Jurisdiction Act, 1867. The practice of proceeding by a jury of inquiry for lost goats may now be considered obsolete.

³⁹ The Fodder Jury system was instituted to prevent trespass and theft. By the statute of 30th July, 1691, it was enacted that no persons should presume to keep more live stock than they had pastureage for in summer, and hay or other fodder for in winter ; and to have this law observed the Coroners were ordered on the 25th March in every year to swear four honest and judicious men (three of them at least to be farmers), in every parish as a standing jury, to inquire into, and inspect the provision of grass and fodder made for the stock of the parish, and to report thereon to the Governor and officers at the first Court after the 25th of March and 29th September in every year, or whenever required. In case they reported any person not having sufficient provision, the Court had power to order the Coroner to sell the defaulter's stock at market prices, and to account to him for the proceeds, deducting expenses. If the jury should be found to be in any way remiss or partial in their duty, they were liable to be fined and punished at the discretion of the Court.

Although the Fodder Jury is not exactly obsolete, it is so seldom put in motion that it may be said to be now practically disused.

⁴⁰ These provisions are now obsolete.

from the institution of juries, and their trials were, in many cases, by that mode ; yet so little regard was paid to the due execution of their office, that the trial by jury was rendered almost useless ; for, instead of being obliged to attend to the evidence in court, or before some of the superior officers in the Island, and give in their verdict immediately after the evidence had been heard, the juries not only took the evidence out of court, but adjourned as often, and to such places, as suited their several engagements.

Their meetings were frequently under hedges, but generally in alehouses, where they heard the witnesses' proofs, and altercations of the parties, and when they thought proper, delivered in their verdicts and the depositions, in the manner already stated.⁴¹

At these meetings, the juries were supposed to be attended by the Coroner, and were, in fact, followed by the plaintiff and defendant, who were there to contest with each other which should entertain them the most liberally, till this practice was restrained by a positive Act.

The forms of proceeding in the before-mentioned courts, Civil and Ecclesiastical, were not, before the revestment, more orderly or exact than the constitution of the courts. Those of the Court of Chancery have been, in some measure, noticed.

In the other courts, civil suits were generally commenced by complaint to the magistrate presiding there ; sometimes verbally, and sometimes in writing, without any settled form.

The process for appearance was only a summons from such magistrate, formerly by a slate or stone inscribed with the initials of his name, but afterwards in writing ; and in case of disobedience, an order or attachment was obtained from the Governor, directing one or more soldiers (who were

⁴¹ The abuses of the jury system referred to in the text, are now matters of history only.

also constables) to assist in bringing the defendant before the court.⁴²

Decrees and judgments at one time were given orally; at another, put into writing.

The execution of them was committed to the Moar by the Court of Common Law, to the Coroners by the other Superior Courts, to the Serjeants by the Inferior Manor Courts, and to the Sumner by the Courts Ecclesiastical.⁴³

In criminal cases offenders were arrested by the Coroners, and delivered over to the Gaolers, either by their own authority, or by warrant from the Governor, one of the Deemsters, or some other chief officer; many of whom, it is said, might, as well as the Governor and Deemsters, commit upon suspicion, in such cases at least as amounted to a breach of the peace.⁴⁴

The course of appeal in civil suits, to the Lord Proprietor, has already been stated to be through the Keys in all cases tried by jury, and from the Governor and other officers in all other suits, whether instituted before the Governor in the first instance, or brought before him by way of appeal; but it is further to be observed, that in all cases the appeal might, prior to the revestment, be carried from the Lord Proprietor before the King in Council, which tribunal, though rarely applied to, was ever the dernier resort.⁴⁵

⁴² It is hardly necessary to remind the reader that the reporters here speak of a state of things which had then no longer existed. The forms of process were regulated by the Act of 1763.

⁴³ No judgment or execution is now enforced by the moars or sergeants, who are looked upon merely as officers of the Manorial Courts. The judgments of the Superior Courts, and of the Deemsters' and High Bailiffs' Courts, are levied by the coroners, and those of the Ecclesiastical Courts by the sumners, except where the enforcement requires the arrest and imprisonment of the person. This is performed by a constable.

⁴⁴ Arrests and proceedings in criminal cases are now regulated by the Criminal Code, 1872, and by the Petty Sessions Act, 1864, and other recent enactments.

⁴⁵ The present course of appeals in civil cases has been already explained in preceding notes.

Previous to the year 1765, the Lord Proprietor had in his ^(C.) Appendix gift and appointment, in addition to the bishopric and other ^{No. 30, 31,} ecclesiastical benefits, the following superior lay officers, viz., ^{No. 32, 33, 34, 35.} No. 36. the Governor, Deemsters, Attorney-General, Receiver-General, Comptroller, Clerk of the Rolls, Water-Bailiff, and Collector; whose several duties, exclusively of what belonged to them in their legislative or judicial capacities, are hereafter shortly described.

The Governor was the representative of the Lord Proprietor, and in that capacity, in his absence from the Island, exercised most of his prerogatives; and besides the severa powers that are before stated to have been vested in him, of convoking and forming part of the legislative as well as executive council, and presiding in all the principal courts of judicature, which could be held only by his warrant, he had the command of all the military force of the Island.⁴⁶

Whenever a vacancy happened in any of the superior offices, the Governor nominated a person to fill the place until a successor was appointed by the Lord Proprietor; and all inferior offices were entirely in his disposal, and he occasionally appointed a Deputy Governor, who in his absence was invested with all his powers and privileges.⁴⁷

The Receiver-General, or Treasurer, through the means of the Water-Bailiff or Collector, and other ministerial officers

⁴⁶ Amongst other powers of the Lord Proprietor which the Governor was authorized to exercise was that of granting customary estates out of the wastes and demesnes of the Island. This was done by a licence to enclose, granted by the Governor, subject to the approval of the Great Inquest as to public ways, waters, and turbaries, and by the affixing of a rent upon the land, followed by an entry on the manorial roll. This power is expressly referred to in the statute of 1422 (*Mills*, p. 6), by the expression, "setting of lands," and nearly all the intackes of the Island have their titles founded on it.

⁴⁷ This power of temporarily filling up any vacancy in any of the superior offices until a permanent appointment is made by the Crown, is still exercised by the Governor. The latest instances of its exercise were the appointment of the Vicar-General during the last vacancy of the Bishopric, and of a Clerk of the Rolls between the death of the late M. H. Quayle, and the appointment of A. W. Adams to that office.

called Coroners and Moars, received, and in the presence of the Governor and Comptroller, deposited in the treasury chest all the Lord's revenues arising in the Island, and thereout paid the salaries and other necessary disbursements of the Lord Proprietor, subject to the check of the Comptroller and the Audit Court hereinafter mentioned.⁴⁸

The Comptroller assisted in stating the accounts of the Lord's revenues, and was the principal agent in settling them at the general audit, and in a judicial character took cognizance of all offences committed within the garrison; and as Clerk of the Rolls, which office was, prior to the revestment, generally united with that of the Comptroller, kept the records, and entered the minutes of the pleas and proceedings in the Civil and Criminal Courts in the Island, and issued copies thereof, which were to be received as evidence; and was annually to make extracts of the fines appearing due from the records of the preceding year, and deliver them to the Coroners, to be levied and paid according to the Governor's order.

To these three officers was intrusted the superintendence and management of all the Lord Proprietor's revenues arising from the Island, and they held a general audit annually for adjusting these accounts, which, together with whatever remittances were to be made, were forwarded to the Lord by the Governor.

The Water-Bailiff and Collector had the charge of collecting in the first instance whatever accrued to the Lord by port duties, or by any means whatever below the full sea mark.

⁴⁸ The office of Treasurer of the Island is now separate from that of the Receiver-General, and the land revenue of the Crown in this Island is now received from the collecting officers by the agent of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues, who have the sole management of the Crown property and revenue in the Island. The Treasurer has to deal with the public revenue of the Island applicable to insular purposes.

The duty of the Attorney-General was to conduct all suits and prosecutions on behalf of the Lord Proprietor, to guard against any infringements of his rights and prerogatives, and to undertake the causes of orphans and widows.

All the before-mentioned officers subordinate to Governor were *ex officio* conservators of the peace, and anciently a table was kept for them in the Castles of Rushen and Peel, and they were called officers of the household.

Prior to the year 1765, there were always two deemsters in the Island, who usually resided one in the Northern and the other in the Southern district thereof. The duties of their office being in general merely judicial, may be collected from what has before been stated : they seem originally to have have been looked upon, together with the twenty-four Keys, as the repositories of the customs and traditions which constituted the common or unwritten law of the Island ; and when required by the Governor either alone or in conjunction wit the Keys, they were to resolve such points as were proposed to them respecting these traditions, and their answer was registered as authoritative.⁴⁹

In all their duties they might act either jointly or severally ; they had their salaries, and were entitled to small fees.

Subordinate to these officers, commissioned immediately by the Lord Proprietor, there were the following inferior officers in the Island, who derived their authority from the Governor ; that is to say, coroners, lockmen, and moars. In every shadding there was a coroner, who served summons and other processes, returned juries, and levied fines and executions, as directed by any of the courts or magistrates. He was also to collect certain of the lower dues arising on casualties within

⁴⁹ Since 1793 there have always been two Deemsters. The mode of ascertaining the law on any disputed or uncertain point, by a request from the Governor to the Deemsters, or to them and the Keys to declare the law thereon, was very frequently put into practice up to recent times. These requests and answers were generally recorded in the Rolls Office.

his Bailiwick, and for these and other purposes was to take inquests, and attend most of the juries and inquests impanelled by direction of the Deemsters or the superior courts, and might likewise convene and swear others, some permanent, some occasional. He also took inquests as in this country, to inquire concerning the cause of sudden or violent deaths.

In each parish there was a Lockman, who was deputy or assistant to the Coroner.⁵⁰

The Moars,⁵¹ one of whom in each parish collected the Lord's rents and fines, acted also as servants to some of the courts, each having his deputy, called a runner. If any of these ministerial officers needed the assistance of force in the execution of their duty, an order was obtained from the Governor for them to be aided by some of the soldiers or trained bands of the Island, a certain number of which were always kept in garrison at the castles and forts of the Lord Proprietor, under the command of a captain and subaltern officers.

Prior to the revestment, it does not appear that much attention was ever paid to the police in this country, but nuisances, and other offences against public order, seem to have been presentable by the Great and other Inquests; and the superintendence of the four principal towns, of Douglas,

⁵⁰ The coroners are appointed by the Governor, and they appoint their own deputies, or lockmen, who are sworn by a Deemster.

⁵¹ As before stated, the Moars are now looked upon as the officers of the Manorial Courts only, and their principal duty is to collect the Lord's rents and alienation fines arising within their parishes. The office of Moar is obligatory on the proprietors of land within the parish, and falls in rotation annually on each quarterland and on the intack lands within the parish. The Setting Quests annually return to the Courts Baron the name of the property liable, and generally one of the proprietors acts in person, or a deputy is appointed by him and sworn as Moar by the Seneschal. On being sworn, he becomes liable to collect the Lord's rent and alienation fines of the parish, and for which he may maintain suits in his own name as Moar.

Castletown, Peel, and Ramsey, was committed to officers styled captains of the towns.⁵²

Before the year 1765, the military force of the Island consisted of the garrisons of the Lord Proprietor in his castles of Rushen and Peel, and the militia of the country, in which every male inhabitant, from sixteen to sixty years of age, was liable to serve, except the Keys and some other persons, exempted by their offices and stations.

The command of the militia was committed to a major-general, captains, and subaltern officers. The major-general was appointed by the Lord Proprietor, and had the general superintendence of the whole military force of the Island, which he might call out and review whenever he thought proper. The captain and subaltern officers were appointed by the Governor, and the militia of each parish and town was commanded by its own officers, and was liable to be called out and embodied as often as the captains thought proper, which was generally for some days in each year.

Neither the officers or men of the militia were entitled to any pay for their service, and were in a great measure armed at their own expense.

Appendix
(C.)
No. 37.

⁵² By an Act of Tynwald passed in the year 1777, the superintendence of the four towns of the Island was transferred to officers created by that Act called High-Bailiffs, in whom was vested the powers formerly belonging to the Captains of towns, referred to in the text. By that Act the High Bailiffs obtained jurisdiction of all suits for matters of debt not exceeding in amount two pounds Manx (£1 1s. 3d. English) arising within districts allotted to them by the Act. These districts consisted of the parishes of Braddan, Onchan, and Santon allotted to the High-Bailiff of Douglas; Lonan, Lezayre, Eride, Andreas, Ballaugh, Jurby, and Maughold to the High-Bailiff of Ramsey; German, Patrick, and Marown to the High-Bailiff of Peel; and Malew, Rushen, and Arbory to the High-Bailiff of Castletown.

By the Douglas Town Act, 1860, the superintendence of the paving, draining, lighting, and cleaning of the town of Douglas was placed in the hands of Commissioners elected by the ratepayers of the town; and by the Ramsey Town Act, 1865, that town was similarly placed under the superintendence of Commissioners. For local purposes, under these Acts, the Commissioners have power to levy rates on real property within their towns, not exceeding 1s. in the £ of annual value.

The towns of Peel and Castletown still remain under the entire superintendence of their High Bailiffs, and the jurisdiction as to small debts conferred by the Act of 1877 still remains within all the districts before mentioned. By various Acts, the High Bailiffs have also summary jurisdiction to punish for criminal offences.

Such is the general view we have been enabled to present of the constitution, courts of judicature, magistrates, and other officers of the Isle of Man, at the time of the revestment; and the alterations that have since taken place therein will next be noticed. These are not many in number. All that the Revesting Act did, was to transfer the sovereignty from the Lord Proprietor to the King. It made no other change in the constitution than what that transfer necessarily occasioned. His Majesty became invested with all the authority, both legislative and executive, that the Lord had formerly enjoyed; and as the functions of the other branches of the legislature remain unaltered, laws continued to be made and promulgated, almost entirely in the same manner that they had been before. The only difference that we are aware of is a trifling one in the mode of giving the sanction of the Sovereign to Legislative Acts.

Appendix,
^(C.)
No. 38.

Formerly the Lord expressed his approbation in writing upon each bill, and transmitted back the bill so approved in order to be promulgated at a Court of Tynwald. Whereas his Majesty's assent to such laws as have passed since the revestment has been signified only by letter from the Secretary of State to the Governor of the Island. Upon that authority it is that the promulgation of the law takes place.

Although it be agreed that the Revesting Act made no material alteration in the substance or the forms of the constitution in general, it is disputed whether it has not, by necessary consequence, though not by direct enactment, affected the formation and composition of that particular branch of the legislature which we have before described as consisting of the Governor and Council. We have already stated the doubts that exist with respect to the ancient constitution of this body. But it is contended by some, that, however it may have been formerly composed, it can now consist

only of those who are appointed to the offices of Government by his Majesty.

They alledge, that the holders of particular employments had a right to sit in Council only because they were nominated to such employments by the then Sovereign of the Island. That on this principle none ought now to be considered as legal members of that body but those who derived their appointments directly from his Majesty ; that the bishop and other spiritual officers, being nominated by the Duke of Atholl, must, therefore, be excluded, inasmuch as (whatever ground their pretensions may have formerly had) a right to a seat in the Council of the Sovereign cannot flow from an appointment made by a subject ; that the Receiver-General, the Comptroller of the Customs, and the Water-Bailiff, must likewise be excluded, because they are created either by Sign Manual or Treasury Constitution, and not by Patent under any of the Royal Seals. In point of fact, from the time of the revestment down to a recent period, this Council has been attended only by the Deemster, the Attorney-General, and the Clerk of the Rolls. The spiritual officers have lately claimed to be admitted, and their claim, though protested against by the Attorney-General, has been allowed by the Lieutenant-Governor.

They contend, that if they ever had the right, they must still continue to enjoy it, for that it has not been altered by any express words, and cannot be taken away by mere implication, especially an implication which is by no means necessary or direct.

We understand that the Lieutenant-Governor has sent over a statement of the whole matter, for the purpose of being laid before his Majesty for his determination.

With respect to the ancient right, we have already stated all the information we were able to procure ; with respect to

Appendix,
(C.)
No. 30.

the operation of the Revesting Act, it is a mere legal question, which it does not belong to us to decide, and on which we shall not presume to offer an opinion.⁵³

As to the Receiver-General, the Comptroller, and the Water-Bailiff, we believe they never have, since the year 1765, claimed admission into the Council, nor have they ever been summoned. We must, however observe, that the two former are now merely officers of the customs, and that their functions, consequently, bear little resemblance to those of the Receiver and Comptroller of former times.

The courts of justice were very little affected by the operation of the Revesting Act. As the judicial authority of the Lord was abolished, the court of his Majesty in Council became the immediate as well as the last court of appeal from the jurisdictions within the Isle.

The Manerial Courts for the several sheadings were reserved to the Duke and Duchess of Atholl, by the term "Courts Baron." The books and enrollments belonging to them were, shortly after the revestment, separated from those of the other courts, and delivered to the steward or agent of their Graces; and since that time, these Manerial Courts have been held by that officer and the respective setting quests for the several sheadings at the same times and places as formerly. In all other respects, the Revestment Act left the administration of justice on the same footing on which it had formerly stood. But some alterations have since been introduced. The office of one of the Deemsters was, about the year 1775, on the death of the person who enjoyed it, discontinued, and there is now but one Deemster for the whole Island.⁴⁹

⁵³ The questions referred to in the text as to the rights of the holders of particular offices to sit in the Council are now not necessary to discuss, as they depended on a state of things which does not any longer exist. All the officers named now derive their appointments from the Crown except the Vicar-General, who is, and always has been, appointed by the Bishop, whose appointment is now direct from the Crown.

By Acts of Tynwald passed in 1777, some regulations were made respecting the courts of General Gaol Delivery, Chancery, Exchequer, and Common Law. With respect to the last particularly, it is enacted, That it shall be held four times in the year, instead of twice; and that it shall be stationary at Castle Rushen, instead of being itinerant **as** formerly.

The Great Inquest is abolished.⁵⁴ It is provided, that juries should in all cases consist of six, and examine the issue referred to them, and deliver their verdict in open court; and further, that the appeal in all causes concerning the title of lands should be to the House of Keys; and in all others, to the Governor.⁵⁵ Provisions were made for preventing unjust imprisonment. And to supply the want of another Deemster, four new officers were created, termed High-Bailiffs, one in each of the four principal towns, and a jurisdiction given to them analogous to that of the Deemster within certain limits, and in all matters not exceeding forty shillings in value, subject to an appeal to the Deemster, which may afterwards be carried before the Governor.

By the before-mentioned Acts of Tynwald passed in 1777, some of the ancient laws of property were altered, and several new regulations of police were introduced. Since that period, no bill has received the Royal Assent. Here, therefore, we close our account of the ancient and modern constitution of the Island, and proceed to the last of the four general heads into which we have divided our report.

⁵⁴ The Great Enquest has been revived. (See Note 36.)

⁵⁵ As to Appeals. (See Note 20.)

A P P E N D I X (C.)



PART III.



LIST OF PAPERS.

A P P E N D I X (C.)

PART III.

C O N S T I T U T I O N .

Number.

1. The Constitution of the Isle of Man, by Thomas Moore, Esq., the Deemster, dated 8th October, 1791.
2. A Letter from Sir Wadsworth Busk, Attorney-General of the Isle of Man, dated Newtown, 13th October, 1791.
3. A Letter from Ditto, dated Newtown, 6th December, 1791.
4. A Letter from John Quayle, Esq., Clerk of the Rolls, dated Rolls Office, Castletown, 17th October, 1791.
5. The Examination of Thomas Moore, Esq., Deemster of the Isle of Man, taken at Castletown, October 19th, 1791.
6. The Examination of John Quayle, Esq., Clerk of the Rolls, taken at Castletown, October 15th, 1791.
7. The Examination of Ditto, taken October 21st, 1791.
8. The Examination of John Taubman, Esq., Speaker of the House of Keys, taken at Castletown, October 15th, 1791.
9. Copy of the most ancient Record in the Isle of Man, A.D. 1417.

Number.

10. The Memorial of the Right Reverend Cladius, Lord Bishop, and Evan Christian, Vicar-General, in behalf of themselves and the other Ecclesiastics constitutionally Members of His Majesty's Council in the Isle of Man.
11. The Oath administered to the Twenty-four Keys of the Isle of Man, before and since the Revestment.
12. The Oath administered to the Bishop of the Isle of Man, before the Revestment.
13. The Oath administered to the Bishop of the Isle of Man, since the Revestment.
14. The Oath administered to the Archdeacon, before the Revestment.
15. The Oath administered to the Archdeacon, since the Revestment.
16. The Oath administered to the Archdeacon's Official, before the Revestment.
17. The Oath administered to the Archdeacon's Official, since the Revestment.
18. The Oath administered to the Vicars-General, before the Revestment.
19. The Oath administered to the Vicars-General, since the Revestment.
20. The Oath administered to the Attorney-General, before and since the Revestment.
21. The Oath administered to the Comptroller and Clerk of the Rolls, before the Revestment.
22. The Oath administered to the Clerk of the Rolls, since the Revestment.
23. The Oath administered to the Receiver-General, before the Revestment.

Number.

24. The Oath administered to the Receiver-General and Collector, since the Revestment.
25. The Oath administered to the Deemster, before the Revestment.
26. The Oath administered to the Deemster, since the Revestment.
27. The Oath administered to the Water-Bailiff, before the Revestment.
28. The Oath administered to the Water-Bailiff, since the Revestment.
29. The Oath administered to the Judge of the Court of Admiralty, since the Revestment.
30. The Governor's Commission, 1764.
31. . . Deemster's ditto, ditto.
32. . . Ditto. ditto, ditto.
33. . . Attorney-General's ditto, ditto.
34. . . Receiver-General's ditto, ditto.
35. Comptroller and Clerk of the Rolls Commission, 1764.
36. Water-Bailiff and Collector's ditto. ditto.
37. Major-General's ditto. ditto.
38. The Legislature of the Isle of Man.
39. Minutes of the Attorney-General's Protest, respecting Members of the Council.
40. Certificate of the Clerk of the Rolls, that there are no Precepts from the Governor, Lieutenant-Governor, or any other Authority, recorded in the Rolls Office, for the convening of the Council of the Isle of Man, relative to the Laws made and enacted for the Time therein specified.

Number.

41. Certificate of the Clerk of the Rolls, that there are no Precepts from the Governor, Lieutenant-Governor, &c., from the Year 1742 to 1777.
42. Extracts from the Exchequer Books of the Isle of Man of the Proceedings of the Governor and Council, 1720, 1721.
43. Ditto. ditto.
44. Ditto. ditto, 1722.
45. Ditto. ditto, 1722.
46. Ditto. ditto, 1722.
47. List of Proceedings or Acts of the Governor and Council, extracted from the Records in the Rolls Office.
48. Copies of Proceedings of ditto, ditto, taken from the Records in the Rolls Office.
49. Copy of the Patent for the Office of Clerk of the Rolls.
50. Copy of the Commission for the Chaplain at Castletown.
51. Ditto, ditto, Constable of the Garrison of Castle Rushen.
52. Ditto, ditto, Steward of the Houses, Demesnes, and Garrisons.
53. Ditto, ditto, Steward of the Abbey Lands.
54. Copy of the Oath administered to the Assistants of the Deputy Searcher.
55. Ditto, ditto, to the Governor, prior to the Revestment.
56. Ditto, ditto, ditto, since ditto.
57. Ditto, ditto, Lieutenant-Governor, since ditto.
58. Ditto, ditto, Steward of the Garrison, before ditto.
59. Ditto, ditto, Steward of the Abbey Lands, since ditto.

Number.

60. The Examination of Mr. George Savage, Water-Bailiff of the Isle of Man, taken at Douglas the 4th and 11th of October, 1791.
61. The Examination of Mr. Thomas Whittam, Chief-Constable of the Town and District of Douglas, taken the 3rd of October, 1791.
62. The Examination of Mr. Daniel Quark, a Coroner of Garff Sheading, taken the 4th October, 1791.



A P P E N D I X (C.)

No. I.

CONSTITUTION OF THE ISLE OF MAN, DELIVERED IN BY THE DEEMSTER THE 8TH OF OCTOBER, 1791.

THE ISLE OF MAN hath been, from time immemorial, governed by its own laws, made and enacted by the three estates of the said Isle, viz. :—

The King or Lord,
The Governor and Council,
The twenty-four Keys, as the representatives of
the inhabitants of the said Isle.

These estates, when assembled, were called a **TYNWALD COURT**, and their triple concurrence established the law.

The Lord of the said Isle sent thither his Lieutenant or Governor (who represented him), and was the chief ministerial officer in the said Isle; sworn to maintain and execute its laws justly and impartially between the Lord and the inhabitants of the said Isle, according to the laws, customs, and usages thereof.

The Council consisted of the Treasurer or Receiver-General, the Comptroller and Clerk of the Rolls, the Water-Bailiff, the Attorney-General, the two Deemsters, the Bishop, the Abbot of Rushen, the Archdeacon, his Official, and the two Vicars-General.

THE TREASURER OR RECEIVER-GENERAL.

He receives the Lord's rent and revenues.

THE COMPTROLLER.

He was the examiner of all public accounts, such as Lord's rents, revenues, &c., previous to their being audited by the Governor and Council. He was also keeper of the rolls and records, entered all pleas and proceedings in the Lord's courts, as also in the courts of the Bishop, Abbot, Barons, &c., for which he was entitled to certain fees in each court. He also regulated weights and measures.

THE WATER-BAILIFF.

He was judge of the Court of Admiralty and keeper of the seal, whereon were engraved the arms of the said Island; he also collected the duties and revenues arising from the exports and imports into the said Island, and paid the same to the Receiver-General.

THE ATTORNEY-GENERAL.

He prosecuted all offences against the Lord and the community, and sat in the several courts in the said Island, in order to see that the rights and prerogatives of the Lord were maintained and preserved. The several officers before-mentioned were sworn to act justly and uprightly in their respective stations, according to the laws and customs of the said Isle.

THE BISHOP was of the Lord's council, as was also the ABBOT OF RUSHEN formerly.

THE ARCHDEACON and his OFFICIAL, with the two VICARS-GENERAL, were of the Lord's council. Two DEEMSTERS or Judges, appointed by commission from the Lord, were of his council. Their office was more immediately between the Lord and the inhabitants of the said Isle, and they have a particular oath administered to them in that respect.

The Governor with the before-mentioned persons constituting the Council, formed the second degree in the state or legislature of the said Island.

THE TWENTY-FOUR KEYS, as the representatives of the inhabitants of the said Isle, were chosen in the manner following; when a vacancy happened, the Keys returned the names of two persons to the Governor, who made choice of one of the said persons, who was thereupon sworn a member.

LAWS, HOW MADE.

When new laws were to be made, the Governor, Council, Deemsters, and Keys assembled, consulted, resolved, and agreed thereon; and having obtained the Lord's assent, by his sign manual thereto, they assembled at a Tynwald Court, when the said laws were published, proclaimed, and certified. At such Tynwald Courts many other matters of great importance were transacted; namely, ordinances made public, accounts of harbours, bridges, and roads passed, coroners or sheriffs annually sworn, &c.

THE GOVERNOR'S DUTY AND OFFICE.

He was chief both in civil and military power, and had, by law, authority to call a Tynwald Court as often as he found necessary, at which the Council and Keys were bound to attend. He generally held a Chancery Court eight times in the year, or oftener, if occasion demanded, in which he sat as Chancellor, and received the advice and assistance of his Officers and Deemsters when he required the same; and he generally held an Exchequer Court the day following the said Chancery Court, where the Officers and Deemsters also sat. He also held an Audit Court once in each year, wherein all public accounts, such as Lord's rents, revenues, fines, and amercements, were examined, ascertained, and audited. In this Court the Officers and Deemsters in like manner assisted.

He presided in the Common Law or Sheading Courts, which were called by his order, and were holden twice in each year for the respective Sheadings in the said Island. He also presided in the Head Courts, or courts of General Gaol Delivery, which were holden the day following the Sheading Courts.

SHEADING OR COMMON LAW COURTS.

These courts were generally holden in the months of May and October, in each and every year, at Peeltown for the Sheadings of Glanfaba, Michael, and Ayre; at Douglas for Garff Sheading; and at Castletown for the Sheadings of Middle and Rushen. The business transacted in these courts was the presentment of all nuisances by the Great Inquest (which consisted of twelve men taken out of each sheading, who were sworn to determine all such matters as came legally before them), trial by jury for title of lands, personal actions, and of actions for the recovery of debts, &c.

The Deemsters swore the juries in the language of the inhabitants of the said Island, gave the charge, and received their verdicts. Previous to the holding of these courts, public notice was directed by the Governor to be given by the Moars or Lord's bailiffs, at the several parish churches, for all persons within the said parishes to attend the said courts, where all deeds and conveyances respecting lands were generally brought in, and published and confirmed by the Governor, Officers, and Deemsters, or any three of them, whereof the Governor was always to be one; and such deeds, upon receiving such confirmation, were for the most part inrolled or deposited in the office of the Comptroller and Clerk of the Rolls. At these courts a jury of four men from each parish, called the Setting Quest, attended; whose duty it was to return and report the names of all such persons as had come to any title of lands and premises, by death, alienation, or mortgage; and such persons were, by law, obliged to give to the said Setting

Quest notice, previous to the holding of the said courts, of their having become entitled to such lands and premises, in order that the said Setting Quest might be enabled to return or present the names of the said several persons at the said courts, for the purpose of having them entered as tenants in the Lord's books, for the rents payable by them respectively ; and in case such persons should refuse, or fail to have their names so entered, they were subject to pay a fine of three pounds to the Lord of the said Island, agreeably to the law in that behalf provided. Copies of the several deeds and instruments whatever, inrolled or deposited in the office of the Comptroller and Clerk of the Rolls, were admitted as evidence in the several courts of the said Island. All deeds of mortgage were by law required to be entered amongst the records within six months after the passing of the same, otherwise to be of no effect in the law. From the variety of proceedings in this court, it is evident it must have possessed a mixed jurisdiction, and was as well a Court of Law as a Manerial Court.

COURTS OF GENERAL GAOL DELIVERY.

The Head Courts, or Court of General Gaol Delivery, was held in the open air, within the outer gate of Castle Rushen, and the Governor, Council, and Deemsters sat therein, with the twenty-four Keys ; and if any criminal had been indicted for felony, four men out of each parish (viz., out of the seventeen parishes, fifty-eight persons), were summoned to attend at the said court, for the purpose of trying the said matter of felony ; and if the person so indicted, when put upon his trial, pleaded "not guilty," four men out of a parish were brought before him, in order that he mig't select such of them as he might think proper ; and in case he did not choose the said four men, or any of them, then four men out of the next parish were in like manner brought to him, and so on until he had chosen twelve men

out of the number returned, as aforesaid, to the said court, for the said purpose, who were accordingly sworn to try the said matter of felony ; and the Attorney-General, on the behalf of the Lord of the said Island, proceeded to examine witnesses touching the same ; and the person accused, either by himself or counsel on his behalf, to make his defence ; and after the several proceedings had been gone through, and the jury agreed upon a verdict, the Deemsters, or one of them, demanded of the foreman of the jury (in the Manks language), whether such of the council, as were ecclesiastics, could remain in court or not ? and if the foreman of the jury gave for answer, they could not, then the said ecclesiastics withdrew ; whereupon the said Deemsters, or one of them, asked said jury, " Guilty or not guilty ?" and upon the said jury declaring the said person " Guilty," the said Deemsters, or one of them, thereupon pronounced sentence of death. But it was in the power of the Governor of the said Isle to grant a reprieve to the said criminal ; and of the Lord to pardon him, or otherwise order the sentence to be executed.

ADMIRALTY COURT.

The Water-Bailiff was the judge of the Court of Admiralty, in which court all causes of admiralty jurisdiction were heard and determined, and judgment pronounced by him accordingly. From this court an appeal lay to the Governor ; and from his decree to the Lord of the said Island.

DEEMSTER'S COURT.

The Deemsters, in their respective districts, heard all causes which were brought before them for debt, to any amount whatever ; determined differences respecting the possession of lands, disputes touching contracts, agreements, and engagements ; from whose judgment, in such cases, an appeal lay to the Governor. The Deemster also took cognizance of matters of assault and battery ; issued warrants for

the apprehending of felons, and the convening of juries and inquests ; received verdicts ; and granted judgments and execution upon the verdicts of such juries.

KEYS, THEIR JUDICIAL CHARACTER.

The Keys, in their judicial capacity, heard and tried all causes brought before them, by appeal, or traverse from the verdict of juries (except in matters of felony) ; they had also, in some cases, the power and jurisdiction of hearing and determining upon matters of slander and defamation, when and as often as the same were transmitted to them by the Governor.

APPEALS.

Appeals or traverses from the verdicts of all juries (except in cases of felony), lay to a Traverse Jury ; and from the verdict of such Traverse Jury to the Keys ; from their judgment to the Lord of the said Island ; and from his decree to his Majesty in Council as the dernier resort. Appeals from the judgments of the Deemsters and Water-Bailiff's Courts, lay to the Governor of the said Island ; from his decree to the Lord of the said Island ; and from the decree of the Lord to his Majesty in Council. In all matters which, in the first instance, were heard by the Governor, an appeal from his decree lay to the Lord of the said Island, and from him to his Majesty in Council.

JUDGMENTS OF COURTS, &c., HOW EXECUTED.

The decrees, judgments, and executions, which issued from the civil courts in the said Island, were put into the hands of the Coroner or his deputy, or into the hands of the serjeants of the several baronies, in whose district the person or persons against whom said judgments, decrees, and executions, were to be executed, resided, in order to execute the same, and enforce payment thereof ; and in case of disobedience or refusal

in such person to deliver up his effects to satisfy such judgment or decree, in the presence of two witnesses, brought for that purpose, the Coroner, his deputy or sergeant, certified such refusal to the court from whence the judgment issued; who thereupon granted a contempt, which was sent to the office of the Comptroller and Clerk of the Rolls, for the purpose of having the same recorded (the recording whereof subjected the party to a fine payable to the Lord), the purport of which certificate was issued and given to the party in whose favour the judgment was given, who then applied to the Governor and obtained his authority for a soldier to imprison the party standing in contempt, until he complied with such decree, judgment, or execution, or gave in security to discharge the same; but if the party or person against whom any judgment, decree, or execution had been obtained, quietly and peaceably delivered up his effects to satisfy such judgment, decree, or execution, his person was not subject to be imprisoned, except for the payment of the rents and fines due to the Lord, and in all cases of contempt whatever.

BARONIES.

There were and are four baronies within the said Island, for which courts were holden.

FIRST, BISHOP'S BARONY.

The Bishop appointed a steward for the purpose of holding his courts, which were usually holden twice in the year, in which the Deemsters, or one of them, sat as judge. The Comptroller and Clerk of the Rolls attended in the said court, and entered pleas, registered deeds, &c., and was the custodior of the books and proceedings in the said court, for which attendance the said Deemsters and Clerk of the Rolls were intitled to and received a certain fee. In this court actions were brought for titles of land and other matters, which were

tried by jury, agreeably to the mode used in the said Island. If any person, residing within the said barony, not being a tenant to the Lord of the said Island, was indicted for felony, such person was accordingly tried for such felony by a jury of twelve men, selected from amongst the tenants of the said barony, in the manner and way practised in the Court of General Gaol Delivery, as already described.

SECOND, ABBOTS OR ABBEY BARONY.

The courts for this barony were, until the present century, holden by a Deemster or Deemsters, the Comptroller and Clerk of the Rolls, and a Seneschal appointed by the Lord of the said Island ; and afterwards by the Governor, Officers, and a Deemster or Deemsters, and Seneschal. The power and authority of this court, and the proceedings therein, were in all respects equal with, and similar to the powers, authority, and proceedings in the court in the Bishop's Barony, as before-mentioned.

THIRD, BANGOR AND SABAL.

This barony was held under patent, by grant from the Crown of Great Britain,¹ and the grantee appointed a steward to hold a court for the said barony ; and as the barony of St. Trinions was inconsiderable, a court was holden for both baronies at the same time, and in like manner with the courts for the Bishop's and Abbey Barony.

OFFICE OF RECEIVER-GENERAL, &c., UNDER THE LORD ABATED.

By the operations of the Act of Parliament, made in the year 1765, revesting the said Island in the Crown of Great Britain, the offices of Treasurer or Receiver-General, Comptroller and Water-Bailiff, under the Lord of the said Island, have become abated, and the several laws respecting the harbours in the said Isle, &c., are rendered nugatory.

¹ The Barony was originally held under the Lords of the Island, and after it became vested in the Crown it was again granted or demised, as stated.

IN THE YEAR 1766

The public records, kept by the Comptroller and Clerk of the Rolls, were separated, and those appertaining to the maneriel rights were delivered to the Steward of the manor, from whence an inconvenience hath arisen to the people in respect to their titles, as by the oath of office of the Comptroller and Clerk of the Rolls, he was to register and keep in custody all deeds of conveyance delivered to him, to deliver true copies of them, and when attested under his hand, the same were given in evidence in the several courts in the said Island. The Lord's Steward of his manors cannot supply the place of the Comptroller and Clerk of the Rolls in this respect, without a law for that purpose.

COURT OF COMMON LAW.

By an Act of Tynwald, made in the said Island in the year 1777, the Courts of Common Law are directed to be holden four stated times or terms in each year; and the mode of proceeding in such courts is, by such Act of Tynwald or statute, considerably varied, and the appellate jurisdiction in part altered.

GREAT INQUEST ABOLISHED.

The duty and power of the Great Inquest, and all proceedings before them, are by the said Act or statute of 1777 abolished and laid aside.

HIGH-BAILIFFS.

By the said statute of 1777, High-Bailiffs are appointed in the four different market towns in the said Island, with power to hear and determine causes under forty shillings, arising in said towns, and within certain districts—into four of which, in this respect, the Island is divided.

The Serjeants of the several baronies were civil officers in the nature of Moars and Coroners ; the soldiers acted as constables do now in their civil department.

APPEALS.

From the decrees and judgments of the Governor, an appeal now lies to his Majesty in Council. From the determination of the House of Keys, an appeal now lies also to his Majesty in Council.

THO. MOORE.

8th Oct., 1791.



No. 2.

LETTER FROM SIR WADSWORTH BUSK,
ATTORNEY-GENERAL.

NEWTOWN, 13TH OCTOBER, 1791.

GENTLEMEN,—

ON consequence of directions from Mr. Secretary Dundas, and in compliance with your request signified to me the 24th of last month, that I should furnish you with "information in writing, respecting the ancient constitution of the Isle of Man, the nature and functions of its legislature, the courts of civil and criminal jurisdiction, the nature of its magistrates and police, the variations which these different institutions have recently undergone, and how far the duties of them have been altered or suspended by the operation of the statute of 1765, as also with any other information or materials which may appear fit, and which may anyway tend to facilitate the objects of the proposed inquiry;" I shall endeavour to supply you with a general outline of the institutions thus inquired after, leaving further particulars to be communicated by gentlemen who have been more conversant in the local polity of the Island, or to be extracted, if necessary, from the muniments and records to which, through the means of the Clerk of the Rolls, I doubt not you will have free access.

The limits which must be put to the time allowed me for answering your inquiries, will not admit of my entering into the minutiae of the subjects, if it were necessary, which I presume it is not, to the design in which you are engaged. The same circumstance may have occasioned, and will there-

fore, I hope, in some degree excuse, much inaccuracy and deficiency in the statement I mean to lay before you. But much imperfections will arise also from another cause.

It is impossible to present you with a complete system, as the constitution of this Island ; the country is yet in a state of society far behind the neighbouring kingdoms. Till about the commencement of the present century, the people appear to have been extremely illiterate and ignorant, incapable of forming or comprehending an abstract scheme of civil government, and unacquainted in a great measure with the importance of political institutions ; their views extended not beyond present emergencies ; they thought only of finding remedies for the evils they immediately felt : hence their public acts and proceedings, especially those of more ancient date, have usually been hastily resolved, unconnected, inconsistent, sometimes inexplicable or absurd, nor do the memorials preserved of them appear to be more regular, methodical, or correct. They were the work of rudeness and simplicity, or of accident and necessity. From such materials what can be collected but an imperfect sketch of defective establishments ? There is no other mode of deducting from them any coherent plan, but by adverting to the general tendency of the different institutions, and the prevailing course of custom. If every measure recorded were taken as a precedent, and every document received as law, the result would be a composition whose parts counteracted each other, and which must be self-destroyed. Whatever is supported by the general tenor of ancient usage, and is confirmed by the constant practice of later and more enlightened times, alone possesses the true character of authenticity.

Before the grant of this Island to the Stanley family (about the year 1406), no written public memorials of its affairs appear to have been preserved ; and if any such were

to be found, it is probable they would throw little light upon the present investigation. Prior to that era, the Isle was subject to a variety of different governments. Though usually subsisting as a petty kingdom (to which the dominion of some of the Hebrides was once annexed), it was also successively tributary to or united with Denmark, Norway, Scotland, and England. These repeated changes must, beyond a doubt, have produced such a mixture in the inhabitants, and such a confusion in their customs, as to render it impossible to reconcile their institutions, if they could be traced. It would be vain, therefore, to look for information during this period. Records were first introduced by Sir John de Stanley, soon after his obtaining the patent of the 7th year of Henry the IVth, vesting the Island in him and his heirs. The Manx Statute-book commences in the year 1422, and no document but that of 1417, hereinafter mentioned, has been discovered of earlier date. Here, therefore, the inquiry on the present head should begin.

By the patent I have mentioned, the King granted to Sir John de Stanley, his heirs and assigns, the Isle, Castle, Peele, and Lordship of Man, with all royalties, privileges, and appurtenances of every kind thereto belonging, in as full and ample a manner as they had been possessed by any of the former Lords or Kings of Man, to be holden by homage, and the service of rendering two falcons to his Majesty, and the like acknowledgment to every one of his successors at their respective coronations. Under that grant this territory was therefore a fief, separate from the kingdom, but defendant on the Crown of England; and the Lords Proprietors were feudatory Princes. They possessed the prerogatives, and for several generations retained the title of royalty; they had the sovereign control of government in every instance: under such restrictions as were from time to time introduced, they

established laws ; they appointed at pleasure all the principal officers employed in public affairs ; they had the patronage of the bishopric, and originally of all the ecclesiastical benefices ; they drew a revenue from the country by rents, services, and casual dues, and afterwards by customs, and other imposts ; they exercised an appellate jurisdiction over all civil causes, and even in capital cases could pardon offenders. The executive power, therefore, in the largest extent, was in their hands. The principal lay officers whom they employed in the Island in the administration of government, were, the Governor, anciently styled also the Captain or Lieutenant ; the Receiver-General ; the Comptroller, with whose office that of Clerk of the Rolls was generally united ; the Water-Bailiff, who was generally also Collector ; the Attorney-General ; and the two Deemsters ; all of whom acted under commissions from the Lord, during his pleasure.

The Governor, Captain, or Lieutenant, was the Viceroy, or representative of the Lord Proprietor, and in that capacity exercised most of his prerogatives. He had the power of convoking, and formed a part of the legislative assembly, or Court of Tynwald. All the principal courts of judicature could be held only by his warrant. He usually presided in them in person, and overruled all other jurisdictions by an appellate authority. He had the command of all the military force ; which consisted of the inhabitants able to bear arms, who were obliged to attend when called forth in array, to keep watch and ward, to serve in garrison in the castles of Rushen and Peele, and also the several forts. Whenever a vacancy happened in any of the chief offices, he nominated a person to fill the place *pro tempore*, and his recommendation was generally the rule of fixing on the successor. All inferior offices were entirely in his disposal. A Deputy-Governor was occasionally appointed by the Governor-in-chief, and in his absence was invested with all his powers and privileges.

The Receiver-General, or Treasurer, through the means of the Water-Bailiff, or Collector, and other ministerial officers, called Coroners and Moars, received, and in the presence of the Governor and Comptroller deposited in the treasury-chest all the Lord's revenues arising in the Island ; and he paid thereout the salaries and other necessary disbursements, subject to the check of the Comptroller and the audit court.

The Comptroller assisted in stating the accounts of the revenues, and was the principal agent in settling them at the general audit : in a judicial character he took cognizance of all offences committed within the garrison : as Clerk of the Roils he kept the records, and entered the minutes of the pleas and proceedings in the several courts ; he was Clerk of the Markets, and had the regulation of weights and measures ; and he was Head Searcher, and had under him Deputy-searchers in the several ports.

To these three officers were intrusted the superintendence and management of all the proprietors fiscal, which were usually thought his principal concerns. They held a general audit annually for adjusting the accounts, which, with whatever remittances were made, were forwarded to the Lord by the Governor.

The Water-Bailiff, or Collector, had the charge of collecting, in the first instance, whatever accrued to the Lord by port duties, or by any means whatever below the full sea mark : he was styled also the Admiral, and held a sort of Admiralty Court, which could take cognizance of every suit, the cause of which arose between high and low-water mark, or at sea, or which related to maritime affairs.

The duty of the Attorney-General was to conduct all suits and prosecutions on behalf of the Lord, to guard against any infringement of his rights and prerogatives, and to undertake

the cause of such as laboured under any incapacity that by the law intitled them to his protection.

All the before-mentioned officers, subordinate to the Governor, were said to be of his Standing Council, and sometimes, with the Governor, were termed also of the Lord's Council. By Standing Council seems to have been meant all such officers as were intitled, without a special requisition from the Governor, to take their seat in the Council whenever it met, in opposition to others, occasional members, who could only appear there when called upon so to do by the Governor or the Lord ; and that such privilege of being stated members of the Council belonged to the officers above described, may be collected from their oaths, in which they were sworn to assist the Governor with their advice so oft as should be needful, or they should be thereunto required : there were all likewise, *ex officio*, conservators, or justices of the peace ; anciently a table was kept for them in the castles of Rushen and Peele, and they were called Officers of the Household.

The Deemsters seem to have been looked upon as being, with the twenty-four Keys (whose original and functions are treated of hereafter), the repositories of the customs and traditions which constituted the common law, in the language of the country called Breast Laws. When required by the Governor, either alone or in conjunction with the Keys, they were to resolve such points as were proposed to them respecting these traditions, and their answers were registered as authoritative ; they were the justices who decided in all ordinary disputes, and animadverted on lesser misdemeanors ; and they sat as judges with the Governor in the superior courts of law. In all their duties they might act either jointly or severally ; they had their salaries, and were intitled to small fees regulated by law. Being probably led by their business to fix in situations at a distance from the castle, being

distinguished by their judicial office from the others, whose employments were chiefly ministerial, and being never included in the household, they were almost always spoken of as separate from the other officers. They are not, in any record that I have met with, described as being in those times of the Standing Council ; but they were to join that assembly whenever called upon by the Governor. By their office they were to assist him with their advice when thereunto required : they attended, however, almost as frequently as the others, and from the meetings of the legislature appear never to have been absent. Subordinate to these officers commissioned immediately by the Lord, were a lower class, who derived their authority from the Governor.

The Island is divided into six Sheadings ; one of the Sheadings contains only two parishes, and in each of the other five Sheadings three parishes are comprised. In every Sheading there was a Coroner, who summoned parties, served processes, returned juries, and levied executions, as directed by any of the courts or magistrates ; he was also to collect certain of the Lord's dues, arising on casualties within his bailiwick, and for this and other purposes was to take inquests, as will be stated in another place. In each parish there was a Lockman, who was a deputy or assistant to the Coroner.

The Moars, one in each parish, collected the Lord's rents, fines, &c., and acted as servants to some of the courts, each having his deputy, called the Runner. If any of these ministerial officers needed the assistance of force in the execution of their duty, an order was obtained from the Governor, for them to be aided by some of the soldiers or trained bands of the Island. A certain number of these were always kept in garrison at the castles and forts, under the command of a captain and subaltern officers in each ; and there was a sort of militia, not constantly embodied, but liable to be called forth by the captain of the parish and his officers.

With these we may close this list of the agents and retainers of feudal domination. But there is another numerous body, too respectable on account of their functions, and too considerable both from their own influence and as instruments of the authority of the Lord Proprietor, to be left unnoticed. Here, as well as in other countries, the ignorance, prejudices, and superstition of mankind have anciently invited the clergy (too ready to grasp at temporal power) into the management of public affairs ; and it must be acknowledged, there were not wanting some amongst them who were eager to avail themselves of those prejudices to the utmost. Before the Reformation, the secular ecclesiastics were nominated by the Lord, as all the chief officers and almost all the ministers of the present Established Church have been since. The hierarchy consists of the Bishop and an Archdeacon (who has the rectory of one parish annexed to his office), and the parochial clergy, two of whom are Rectors, and the other fourteen Vicars. The Bishop has under him two Vicars-General and a Register ; the Archdeacon hath likewise his Official and Register. These spiritual officers, that is to say, the Bishop, the Archdeacon, the Vicars-General of the former, and the Official of the latter, were sometimes called to and sat in the Council ; but they were frequently absent even from assemblies of the legislature. The Bishop and the Archdeacon were probably stated members of the Council in all affairs of government. The Vicars-General and Official were only to attend when called upon. In their oaths of office the former were sworn with their best advice to be aiding to the Governor, generally without any condition ; the latter under the restriction, as oft as they shall be called upon or thereunto required.

During the prevalence of Popish superstition, and long before the grant to the Stanley family, several detachments

of the monastic orders found their way into this Isle ; and they erected here an abbey, and some smaller religious houses and cells ; each of which had a tract of land annexed to it, forming a manor or barony, distinct from that of the Lord, but held of him as paramount by homage and fealty ; in like manner, the demesne, and other customary estates of inheritance appropriated to the bishopric, appear to have been always a separate barony. In all these manors the ecclesiastical proprietors had the same manorial rights the Lord enjoyed in his larger district. In old times they were fled to, as places of refuge, by such as sought to escape from the Lord's authority ; and the record before-mentioned, of A.D. 1417, is a prohibition of this abuse. The heads of the religious houses seem to have attended in public processions and ceremonials, at the Tynwald, or meeting of the legislative body ; and they may have been sometimes called to the Council ; but there is no reason to suppose they were ever stated members of that body. After the destruction of these corporations, by the dissolution of the several monasteries in England, Scotland, and Ireland, to which they were appendages ; the lands, that had belonged to them, were taken possession of by the King of England, and for some time afterwards were held by private subjects under grants or leases from the Crown ; and they still remain distinct baronies. The grantees, and even the lessees, who held them, were styled Barons ; and besides their manorial privileges, had likewise, in that character, an exemption from serving in any inferior public office ; but what share they had in the Council or the legislature, is not, as far as I have learnt, clearly ascertained.

If the people here largely experienced the evils resulting from the system of feudal dominion, they were not destitute of the advantages which that system usually left to its vassals. The power of the Lord originally might, perhaps, be slightly

limited even in legislation. But from the earliest times, the people appear to have had considerable influence, mediately or immediately, in the establishing laws ; by their perseverance in the assertion and exercise of which privilege, the authority of the Lord became by degrees more and more effectually subjected to those forms by which the security of liberty required that it should be circumscribed ; the means or organ by which they acted, was the House of Keys ; these were twenty-four of the principal commoners, in the old phrase, the worthiest men in the land. In the first pages of the Statute-book they are declared to be of very great antiquity. At a general assembly of the country in 1422, which appears to have been held for the purpose of declaring to Sir John Stanley the ancient constitution, the Keys are represented as having substituted from the days of their Prince Orrye, when some of the western isles appertained to the kingdom of Man. And it is said eight of the Keys were chosen from the outer isles, and sixteen in this : after the severance of the former, the whole number were chosen in Man. It is not clearly discovered, what was the primitive mode of their election ; but for a long and indefinite time, the manner of supplying every vacancy, has been by the House presenting two persons to the Governor, of whom he nominated one. From the time of their original institution, they seem to have been the authority to which the Deemasters were to have recourse for information, when any difficulty occurred in ascertaining the customary or breast laws ; from expounding or opening which, it is said, their name is derived. They sometimes acted as a species of grand inquest. They were also a court of judicature, with an appellate jurisdiction. But their most important office consisted in the share which, fortunately for the country, they possessed in its legislature. At the meeting in A.D. 1422, already mentioned, this part of their power is acknowledged and confirmed : and from a record, anterior to anything in

the Statute-book, being dated A.D. 1417, and supposed to be the oldest extant, we find them then concurring with the Lord, and certain commissioners of his, in a public act. Being the most intelligent and substantial men in the country, and comprising, perhaps, all that were so in any considerable degree, it was found that the sense of the people was to be completely and most commodiously discovered in their voice; and thus they came to be considered as the representatives of the commonalty, and as an essential part of the legislature; which then was composed of the Lord, the Governor, and the principal officers (including the Deemsters), and the House of Keys, who, when assembled for the passing or promulgating laws, usually met at the place called the Tynwald Hill.

During the fifteenth and sixteenth centuries, there occur a variety of rules or orders, reputed and received as laws, prescribed by very different powers, or combinations of powers. Some of them are ordinances by the Governor and other chief officers, some of them edicts by the Lord, some orders by his Commissioners, and some mere entries in the rolls, not sanctioned or attested at all; so that as precedents of the exercise of legislative authority, they clash with and overthrow one another. And further, none of them being adhered to with any exactness of regularity, and all of them having been dropped in modern times, they are, as a rule for the mode of passing laws, to be entirely laid aside.

During this period of fluctuation and uncertainty, the foundation was established of that more regular and rational form before described. About the beginning of the last century it assumed a more finished appearance: since the grant to William, Earl of Derby, of the 7th of James I. it seems to have been varied from in only one or two instances worth remarking. On one occasion, in 1637, the Barons, and the commons and inhabitants of the Island, are joined in the

body spoken of, as assembled in Tynwald, and an enactment is said to be made “by James, Lord Strange, and by the “Barons and twenty-four Keys, commons and inhabitants of “the Isle, assembled at the court therein mentioned.”

In October 1643, the Lord being present in person, was attended by the officers spiritual and temporal, and the Keys, as likewise by a number of men, consisting of four out of each parish, chosen by the commoners; and he there decided respecting certain complaints, preferred by or on behalf of the people against the clergy. The assembly was held in consequence of a prior assembly of the same kind, convened two or three months before, wherein a sort of grand jury or inquest were formed, partly from the Keys, and partly from the men collected out of the parishes, who were to inquire into, and present grievances in general, and particularly into the truth of certain petitions and remonstrances, that are represented as giving occasion to the procedure. At the second meeting, the inquest appear to have returned the result of their examination; and several points being disputed by the clergy on one side, and the Keys and delegates from the parishes on the other, were adjudged by the Lord; and his determination agreed to and attested by all the persons above enumerated. Admitting this assembly, as well as that of 1637 above-mentioned, to have acted as a legislative body, it is to be remarked, that there are in the whole Statute-book no other similar instances; and not being sufficiently supported by anything preceding, nor ever repeated afterwards, cannot be allowed to be of any force towards erecting a corresponding constitution. And it is further to be observed, if the latter be supposed to have any authority for that purpose, it seems to be expressly and anxiously done away by the series of subsequent Acts of Tynwald; the very next of which, and most of those following for a considerable number of years, style the Keys, emphatically, the representative body of the country.

With these exceptions, and one or two others, in which the commands of the Proprietor were again obtruded on the people as laws, the Governor and other chief officers, and the Keys, with the Lord, have, since the beginning of the last century, been invariably the ordaining power in legislation. Their acts, like those of the English parliament, were first in the nature of petitions granted by the Sovereign; and afterwards the formula, in imitation of that adopted in England, began with a recital or preamble, and then proceeded in the style, “It is ordered, ordained, and enacted, by the Governor and other officers (sometimes, by their several names and additions; at other times, by the terms, Governor, Council, and Deemsters), and the Keys.” The bills thus passed, having received the assent of the Lord, were promulgated at a General Tynwald Court, and an entry of such assent and promulgation was enrolled with the attestation of the members of the court, who happened to attend. This constitution of the Legislature, having sprung from the usage of the remotest periods of which any memorials are extant, having been gradually improved as men became more enlightened, and confirmed by the almost uninterrupted practice of a hundred and fifty years prior to the revestment, is justly to be considered as finally and completely established at the era of 1765.

With regard to the share of influence belonging to each of its branches, some uncertainty may remain. These points were probably never fully agitated, nor expressly determined; but it has been generally understood that the legislative body consisted of three estates: the Lord Proprietor as Sovereign, the Governor and Council, and the House of Keys; and that to the validity of any Act was required the concurrent assent of the Lord, the Governor, and at least two members of his Council, and a majority, that is, at least thirteen, of the House of Keys. The Deemsters, when present (which they

almost invariably were) in Tynwald, were, though specifically mentioned, always looked upon as part of the Council; so likewise were the spiritual officers, but their names seldom occur. To the acts of the House of Keys, in their judicial as well as legislative capacity, it was necessary there should be an agreement of a majority of their whole House; but for ordinary business, thirteen formed a House, and the resolution of a majority of that number was valid.

In this body, to wit, the Sovereign, the Governor, and other officers, and the Keys, was lodged the supreme power; and its functions were such as necessarily belong to that power in every community: it exercised its authority in all the highest instances of government; and its acts were binding in all cases whatsoever. The statute book presents laws and enactments respecting every object of legislation, public and private, rights and injuries, magistracy and courts, police and revenue, port duties and general assessments; and practice therefore concurs with the general principles of government, to point out and ascertain the powers of the Insular parliament.

I have now stated, as far as appears necessary on the present occasion, what I have been able to collect respecting the nature and functions of this body previous to the revestment in 1765.

The Act of revestment does not expressly make any alteration in the constitution or government, otherwise than by transferring the whole sovereignty entirely and absolutely to his Majesty. Since that event the former constitution, therefore, has continued without variation, except such as hath been introduced by the necessary consequences of the Act, by an improving practice, or by collateral measures. Since the revestment, all the principal civil officers have been appointed by patent, or commission from his Majesty. The post of

Comptroller being now confined merely to the revenue business, and held by Commission from the Lords of the Treasury, is separated from that of Clerk of the Rolls ; but the Clerk of the Rolls remains a stated member of the Council, and the present possessor of that office was upon the revestment created Clerk of the Council. The office of one of the Deemsters was about the year 1775, upon the death of the gentleman who enjoyed it, suppressed ; and there is now but one Deemster, who is always regarded as a stated member of the Council, equally with any other officer of the Crown. The Attorney-General, with the two officers last mentioned, the Clerk of the Rolls and the Deemster, have composed the Governor's standing Council ever since 1765. The Act of that date having (as just before observed) vested all the rights of sovereignty and dominion completely in the Crown, it became questionable how far a person could properly be admitted to a share in government, by virtue of any appointment not derived in the direct and proper channel from his Majesty. For this reason, and to prevent blending together departments which ought to be kept distinct, the Receiver-General and the Water-Bailiff, having been created by commission from the Treasury, and not by patent under any of the Royal Seals, have not, since 1765, been considered as members of the Council.

On similar grounds, the patronage of the bishoprick being left in the Atholl family, and that of all the other church preferments, either in the same hands or those of the Bishop, the Ecclesiastical Officers have not for these twenty-six years past been *admitted*. Of late they have complained of their not being summoned thither ; and, as I am informed, have submitted their claims to his Majesty, in a memorial forwarded to the Secretary of State for the Home Department, to which I cannot learn that any answer has yet been received. They

have however appeared in the Council, and the Attorney-General thereupon stated the objections already intimated against their entering into that assembly, in derogation (as he apprehended) of the rights of government vested in the Crown. He conceived and suggested, that whatever privilege the spiritual officers had under the Lords Proprietors of being called to the Council, or rather whatever burthen they were in this respect liable to, it belonged to them as the officers mediately or immediately of the Sovereign of the Island; that having, since the revestment, been all of them appointed by subjects, they could no longer be considered as officers of the Sovereign, and ought not therefore, without a special command, to be received into his Majesty's Council of the Isle. It is to be added, that though the claim alluded to was made only by the Bishop and Vicars-General, yet the same principles which would admit them, might, perhaps, be held to admit the Archdeacon and his official, and thus the Council be converted into a sort of convocation. The Attorney-General expressed his readiness to grant, that the pretensions of the Bishop were better founded than those of the inferior officers, in respect to the tenor of his Lordship's oath, the ancient share the Bishops had in the Council, and their high rank in the Church. But the Attorney could not allow that his oath, or the oaths taken by the other spiritual officers (which remain the same as formerly), though they might be proper evidence of what was deemed the duty of the office at the time when they were framed, should, by being continued afterwards without the Royal authority, merely in the ordinary routine of business, confer or support a right inconsistent with the spirit of an Act of Parliament.

If the Constitution were to be defined by an official oath, it might be contended that, by the variation which took place (perhaps inadvertently) at the time of the revestment, in the

Governor's oath, he acquired the power of annihilating the Council.

The Attorney-General further submitted, that supposing the right claimed by the Ecclesiastical Officers to have existed, yet, as it had not been exercised since the Isle came into the possession of the Crown, it should at least wait the decision of his Majesty upon the representation that had been transmitted to the Secretary of State. His opinion being overruled by the Lieutenant-Governor, he thought it incumbent upon him to cause a minute of his dissent to be entered : the Bishop and one of the Vicars-General, however, still attend as of the Council ; and thus the matter at present rests.

The other branches of the Legislature have undergone no change in their formation since 1765, save that with a view of relieving the chief officer from the necessity of perpetual confinement in the Island, a Governor and a Lieutenant-Governor have been appointed, who were to be resident alternately ; and either of them, when resident, is invested with all the powers and privileges of the office.

In conformity to and confirmation of the ancient Constitution, several Acts have since 1765 been passed by the Governor, Council, and Keys (the Council consisting of such three patent officers as are already mentioned to have composed it), and having received through the means of the Secretary of State the Royal assent, have been regularly promulgated at a Tynwald.—I perceive with satisfaction, that the obstructions which have for several years past frustrated every effort to exercise the same legal, established, necessary power, form another head of your inquiry, to which your attention is particularly directed, and with a view to which, more especially, information is sought respecting the subjects enumerated in your letter. It does indeed appear to me perfectly reasonable, that his Grace the Duke of Atholl, possessing considerable

property in the Island of different kinds, and residing at a distance on the other side the Channel, should have notice of any Act to be passed in Tynwald, early enough to give time for his sentiments respecting it to be stated before such Act can be transmitted to his Majesty. At the same time I must remark, that the interests of the Crown, and of the Island, equally demand that the strictest possible care should be used that the Act of 1765 be not violated, by allowing to a subject any further interference than merely for the purpose of suggesting matter for the consideration of those entrusted with the power of enacting laws ; and that this right should be guarded by such restrictions as may effectually prevent its being converted, in the hands of an agent, by any delay or contrivance, into a restraint or controul over the Legislature of the country.

Having been prevented, by the circumstances mentioned in the letter which accompanies this, from preparing anything fit for your inspection touching the other subjects of the inquiries directed to me, I hope to be excused for presenting you separately with what has occurred on the first and most important of them ; and here, closing my observations on that head,

I am, Gentlemen,

Your most obedient humble Servant,

WADSWORTH BUSK.

To the Commissioners of Inquiry
for the Isle of Man.

No. 3.

LETTER FROM SIR WADSWORTH BUSK,
ATTORNEY-GENERAL.

NEWTOWN, 6TH DECEMBER, 1791.

GENTLEMEN,—

HAVING undertaken to supply some account of the other particulars enquired after in your letter of the 24th of September, besides those treated of in that which I had the honour of addressing to you the 13th of October; I am now to endeavour, as a supplement to the sketch of the Legislature, to give you a general description of the Courts of the Island and their jurisdictions, its magistracy and police: but the knowledge I have been able to acquire on these topics being unavoidably derived from extremely imperfect materials, it is impossible the account should be very minute or correct.

The subject is indeed still less capable of precision or certainty than that of my former letter, this part of the Constitution being involved in yet greater intricacy and obscurity. Jurisprudence was not attended to as an art, by a people little acquainted with any higher employment than that of steering a fishing-smack, or turning the earth with a spade. Having no lawyers, the rustic sailors alone managed their own contests and those of their neighbours; and disputes thus rudely conducted, juries and judges almost as illiterate as the parties, terminated by a hasty decision, with little regard to principles or forms. The same causes therefore that produced the irregularities complained of with regard to the Legislature, occasioned at least an equal want of accuracy and uniformity

in judicial proceedings, in which department perhaps more than in any other, the simple institutions of early times are perpetually productive of increasing confusion, if retained with little amendment amidst the multiplying occasions of more advanced society.

From a distant period the Island had its courts of General Gaol Delivery, of Chancery, of Exchequer, of Common Law, and its Manerial Courts, besides the ancient and ordinary jurisdictions of its Deemsters. But the superior judicatories were not so properly distinct courts, as the same court acting in different situations and upon different subjects. The first rough information of judicial magistracy, in this as in other countries, was perfectly plain and inartificial. The Lord Proprietor possessed supreme authority, and it was delegated by him to the Governor, who was to exercise it by the advice of, and in conjunction with the other principal officers. They were, in the first place, to collect and remit their master's revenues, and manage his property to his best advantage; and it seems to have been considered as a collateral part of their duty, to preserve some tolerable peace and order amongst the vassals, by determining differences and punishing outrages and crimes.

The Governor, as the representative of the Lord Proprietor, was, by an ancient rule of law, authorized to hold cognizance of all pleas civil or criminal; and he, with the other chief officers, seem to have formed originally a kind of *aula Regia*, which assumed a universal jurisdiction. It is in this light probably they are considered, when denominated by a term which was anciently and is at present frequently applied to them, The Staff of Government; under which title they were and are yet resorted to by petition, called a Petition of Doleance, in cases where adequate relief cannot be otherwise obtained.

When the Governor and other chief officers sat as a criminal court, they were joined by the Keys, and thus constituted the court of General Gaol Delivery, which being composed of the same persons as the Legislature, was the tribunal next in importance to the Tynwald, and by which were tried all capital offences, treason, murder, and other felony. The attendance of the Keys was required on these occasions, not only as their presence added solemnity to the procedure, and because their knowledge of common law enabled them to give authoritative information on any legal question which the business before them might produce, but also because they were to animadvert upon any default or misconduct of the jury. The system of feudal tyranny here, as well as in England, suffered the seeds of freedom to remain in the midst of oppression, by admitting the trial *per pais*. The court of General Gaol Delivery could try no culprit but by jury. As it was necessary that his accusation should be previously confirmed by a jury of six, so his fate was to be determined in that court, upon the issue of guilty or not guilty, by a jury of twelve. For supplying the latter, sixty-eight men, four from every parish, were impanelled and returned by the Coroners, and out of this number the jury was selected, so as might best satisfy the prisoner and the prosecutor. Upon conviction, sentence was pronounced by one of the Deemsters; and if the Lord were not present, a report of the case was transmitted him, and the Governor respited execution till his pleasure could be known.

This court was held in the gate-way of Castle Rushen, twice in the year, in May and October, which were called their terms, being the stated times for holding all the principal courts. Till about the latter end of the sixteenth century, the confused registry of all public acts, and the proceedings of the several courts amongst the rest, were kept promiscuously

in miscellaneous rolls and books : from about the year 1580 the proceedings of the courts have been entered in separate books ; and those of the General Gaol Delivery have ever since then been inrolled in the *Liber Placitorum*, which has been the record of the Court of Common Law.

Of the courts of civil jurisdiction, the first to be noticed is the Court of Chancery, in which the Governor sat as Chancellor, and was assisted by the other chief officers and the Deemsters. It seems to have had its origin in the power of granting arrests of the person and effects, which in civil cases belonged to the Governor alone : such arrests were obtained of course, upon an allegation that the defendant was about to leave the Island, who, on being served therewith, either gave bail or was confined. The suit being thus brought into Chancery, was, as the parties chose, or the Governor ordered, retained to be heard and determined by him, or transmitted to some other jurisdiction. Causes commenced in this way, which from the situation of the Island may be perceived to be the mode in which a great number must have been begun, were termed common actions. Other suits were likewise instituted before the Governor in his capacity of Chancellor, where, from different circumstances, full redress could not be obtained in the inferior judicatories ; and the Court of Chancery was said to be both a court of law and a court of equity. The complaint was generally by a sort of bill very loosely drawn : but it was not till a very few years before the revestment that the defendant was compelled to answer upon oath, and even then his answer was frequently taken without being put into writing. If the Governor thought any particular case required it, he employed a jury, who examined into the matter out of court, and returned their verdict to him. Where the hearing was before himself, the witnesses gave their depositions in court, which at one time

were reduced to writing, at another not. The same power of arrest that brought the parties before him, was used to enforce his decrees, and he might likewise grant a sequestration. This court sat regularly once every month, except January, May, September, and October, and occasionally at other times. Immediately after it, was usually held the Court of Exchequer.

The Governor, with the other principal officers as his Council, taking cognizance of disputes or offences relating to the Lord's revenues, rights, or prerogatives, composed the Court of Exchequer; to which belonged all causes of this description, and where were carried on the prosecutions for the recovery of penalties incurred by frauds upon the customs. This court exercised a criminal jurisdiction likewise over other misdemeanors; over all species of wrongs, probably, which subjected the offender to the payment of a fine to the Lord. Like the Court of Chancery, it usually proceeded without a jury; but when the Governor thought fit, he had a jury summoned, and took their verdict. The proceedings of the Exchequer were registered in the *Liber Scaccarius*; in which also the statute laws were frequently recorded, and which is still the repository of various other enrolments. It contains the names of the Keys, a list of the Coroners, recognizances of the peace, proclamations, orders and instructions from the King in council to the Lord or Governor of the Isle of Man, concerning the proclamation of war or peace, quarantine, &c., entries of fines and amercements imposed by the several courts or magistrates, the Lord's particular orders, the Governor's orders, and orders by the Governor and Council of the Island, appeals from the inferior courts, petitions and complaints respecting breaches of the peace and other trespasses, licences for erecting mills, leases from the Lord, and a variety of other particulars.

The Common Law Courts, the style of which was "Before the Governor and all the chief officers and Deemsters," were

held by these officers at different places for different Sheadings; at Peele, for Glanfaba, Michael, and Ayre Sheadings; at Douglas, for Garff; and at Castletown, for Rushen and Middle. The circuit to these places was made, and the Common Law Courts held in each at the two terms already mentioned, in May and October, and at all of them a distinct day was assigned for the business of each sheading. These may be considered as Courts of Common Pleas, where all causes between subject and subject were regularly cognizable, unless carried by consent of parties, or for some special reason, to courts more expeditious in their process or higher in authority. Here, therefore, were tried all species of actions, whether personal or respecting the titles of real property, and the trial was necessarily by jury; in the latter case by a jury of six men of the sheading in which the lands, &c., were situate; in the former by a jury of four, belonging to the parish where the defendant lived. When the plaintiff and defendant appeared in court, the jury summoned by the Coroner were sworn, and directed to examine into the dispute, which they were permitted to do at their leisure out of court, and left to deliver their verdict to the court at its next meeting, or sooner to one of the Deemsters, if convenient to themselves or thereto particularly required. The verdict, when delivered, was to be accompanied by an account in writing of the evidence, and being received (which it could not be unless unanimously agreed in by the jury), it was recorded by the court, and if the parties acquiesced, an order for carrying it into execution was given accordingly. But either party apprehending himself aggrieved might, on application to the Clerk of the Rolls within twenty-one days, and entering into a security or recognizance, traverse the verdict, and procure the cause to be re-tried by another jury, consisting, in the case of actions concerning realty, of twelve, and in personal actions, of six, the mode of whose selection and

proceedings was similar to that of the former juries, excepting that they were to determine according to the evidence previously taken. If the second verdict was not satisfactory, another traverse was allowed to the Keys. They or the second jury might either affirm, reverse, or alter the verdict before them, and if they found reason, condemn the prior jurors to be amerced. The Court of Common Law seems to have entertained cognizance, besides the civil suits hereinbefore mentioned, of such assaults as were denominated Blood-wipes, in which cases the trial was by jury of six from the parish where the party lived, and a fine of sixpence was the penalty, with costs.

At these courts were assembled, renewed, and sworn, the Great Inquest, which was a jury of twelve in each sheading, returned by the Coroners. This Inquest attended at the court for the sheading to which they belonged, where one of the Deemsters administered the oath to them, and delivered their charge, which is inserted in the Statute-book, and from whence their duty is to be collected. It was in general, to make presentments concerning ways, water-courses, and boundaries, and of various trespasses and nuisances. Their verdicts and presentments were returned in the Court of General Gaol Delivery, which sat at the expiration of the half-year for which they had served.

When the business of the Common Law Court in impaneling juries and receiving their returns was dispatched, the Governor, and other officers who composed it, and who, being the servants of the Lord, were to manage his affairs in every department, applied to the business of the day esteemed the most important, because relating to the property of their employer, and transforming themselves into a judicatory of a different description, they sat as a Manorial Court, commonly known by the name of the Sheading Court, being held at the

same times and places and for the same districts as the Common Law Courts. In the Manorial or Sheading Courts was kept the registry of the names and titles of the Lord's tenants, and upon every change of tenant by death or alienation, the name of the new one was entered, and that of the former withdrawn upon the presentment of a jury termed the *Setting Quest*; one of which inquests, consisting of four tenants, was appointed in every parish: a principal part of their office originally was, when any lands fell to the Lord, to discover a proper person to whom they might be set, and compel him to become the tenant. They made partitions of joint estates, they apportioned rents, and served as a sort of homage jury in these courts; the like business being transacted there as in the Courts Baron of copyholders in England, and in somewhat a similar manner. But the tenure, though strongly resembling privileged copyhold, was not so; the lands not being held by copy of court roll, but conveyed by deeds, which were to be acknowledged by the parties before a Deemster, and confirmed by and before three at least of the Council, of whom the Governor to be one, and which, or copies thereof, were, if the parties chose, as they usually did, deposited for safe custody with the Clerk of the Rolls. The Moars were ministerial officers of this court, and were employed to collect the quit-rents, and other manorial dues.

From their affinity with the last-mentioned courts, it may be proper here to notice (though they have only a limited local jurisdiction) the Manorial Courts held in and for the several inferior Baronies or Manors. These were, the Courts of the Bishop's Barony, that of the Abbey of Rushen, that of Bangor and Sabal, and of St. Trinian's, the two last being held conjunctly. Such courts were conducted by the proprietors of the manor or their stewards, with the assistance of one of the Deemsters and the Comptroller, who received a compensation

for their attendance ; and the Attorney-General and Receiver-General were occasionally present. They seem to have exercised an authority in their several districts equal to the whole of that possessed by the Common Law and Sheading Courts ; performing the business of Courts Baron in the admission and enrolment of tenants, &c., by means of peculiar Setting Quests of their own ; and taking cognizance likewise, in manner analogous to the mode of procedure in the Common Law Courts (and with the like traverse to a second Jury and the Keys), of all actions, of whatever kind, where the defendant belonged to the respective Baronies.

The Courts of General Jurisdiction, which sat most frequently, and in which all ordinary business was dispatched, were the Deemsters' Courts. Each of the Deemsters held a court, wherein he was the sole judge, and had power to determine, without a jury, on a summary hearing, according to the common law of the land, anciently denominated *Breast Laws*, upon such matters as were brought before him to be so decided ; which were, in civil cases, all actions, of whatever nature, wherein a trial by jury, or before a higher authority, was not desired by the parties, or commanded by the Governor. In criminal cases, where a specific penalty was directed by statute, the Deemsters might in the same summary mode take cognizance of such misdemeanors, and order the fine to be levied, or inflict such other punishment as the law appointed. In matters too, both civil and criminal, where a jury was required, but where immediate or speedy redress was necessary, they impanelled juries ; and upon taking their verdicts, if the damages or penalty were thereby precisely ascertained, ordered them to be enforced ; if not, the party was left to be amerced by the Governor in Council, or tried in the Courts of General Gaol Delivery.

The Deemsters took inquests of felony by juries of six, as

hereafter stated : but the juries, thus summoned by their authority, in other cases consisted of four men of the parish in which the cause of action arose, and they were, for the most part, trespass juries, to view and estimate damages done by trespasses ; or juries of inquiry, who were employed in cases where an injury or loss had been sustained, to discover the thing missing, or the person of the offender ; for which purpose the whole neighbourhood was summoned before them, and every individual was either to acquit himself by his oath, or be held convicted by his refusal. The verdicts and presentments thus taken, were to be transmitted by the Deemsters to the office of the Clerk of the Rolls ; and the like traverse was in many instances allowed to a jury of six, and thence to the Keys, as in personal actions instituted in the Courts of Common Law. The jurisdictions of both Deemsters were perfectly similar, and extended throughout the Island. They usually exercised their authority each within the division of the Isle in which he resided, one in the south and the other in the north ; but, occasionally, they acted within each other's districts. They held their sittings one day in every week, or oftener if business required. An appeal lay from this judgment to the Governor, if presented within a certain time, and accepted by the Deemster from whose judgment it was preferred.

The Coroners were to attend most of the juries and inquests impanelled by direction of the Deemsters or of the superior courts, and might likewise convene and swear others, some permanent, some occasional ; particularly, they took inquests, like the Coroner's Inquests in England, to inquire concerning the cause of sudden or violent death *super visum corporis.*

For all causes of action or misdemeanors happening out of the body of the country, or below full sea mark, the proper

judicatory was the Court of the Water-Bailiff, who was styled Admiral ; the limits of whose jurisdiction were said to be the high-water mark on one hand, and the distance of three leagues from the shore on the other. Whatever disputes or offences less than capital offences occurred within these bounds, especially contentions and disorders amongst the fishermen in the season of the herring fishing (over which he had the superintendence), he was to take cognizance of, and for that purpose to hold courts, impanel juries to consist of six, and having received their presentments or verdicts, to decide according to the law of the land. He had jurisdiction also in causes respecting maritime affairs, which were to be tried before him by a sort of special jury of merchants or seafaring men. An appeal lay from his judgment to the Governor.

In an enumeration of the courts of the Island of civil and criminal jurisdiction, the Spiritual Courts must not be omitted. A Consistory Court was held alternately by the Bishop or his Vicars-General for one half the year, and by the Archdeacon or his Official for the other half ; and these courts were allowed to proceed according to the ecclesiastical law, but have acquired and retained more extensive powers than even the English clerical tribunals, having, beside their spiritual authority, the cognizance of such civil affairs as fall within ecclesiastical cognizance in England, and likewise of various others : particularly, it not only belonged to them to determine the validity of wills, and to grant administrations ; but they sustained all causes respecting them, or concerning the legacies or the debts of the deceased, within one year and a day from the probate of the will or granting of administration ; and likewise all suits against executors and administrators as such, at any time within two years from the cause of action. For divers offences too, besides inflicting church censures, they

detained the party in the ecclesiastical prison, which was a subterraneous vault in the Castle of Peel; in order, after an examination of a jury of six, whom they were authorized to impanel, that he might be delivered (if it was judged necessary) for further trial and punishment to the temporal power; and they not only committed to their dungeon for the purpose of such detention, but confinement there was sometimes ordered by their definitive sentence. In affairs merely spiritual, the appeal from these courts was to the Archbishop of York, in all others to the Governor; a vague distinction, which was the source of continual disputes.

The forms of proceedings in all these tribunals, civil, and ecclesiastical, was not more orderly or exact than the structure of the courts themselves. Those in the Court of Chancery have already been briefly noticed. In the other courts, civil suits were generally commenced by complaint, made sometimes verbally, sometimes in writing, sometimes in one form, sometimes in another, to the magistrate presiding in the court where it was brought; and the process for appearance was only a summons from such magistrate, formerly a slate or a stone inscribed with the initials of his name, or other mark called a token, though afterwards the summons or citation was in writing. In case of disobedience, an order or attachment was obtained of course from the Governor, directing, as the case required, the aid of one or more soldiers of the militia (who were then the only constables) to assist in bringing the defendant before the court; no other officer than the Governor having power to grant a warrant of arrest, in order to secure appearance to a suit; excepting that the Water-Bailiff might, upon allegation of debt, detain for twenty-four hours a party who was suspected of being about to leave the Island.

Though the trial was in many cases, and in the Common Law Court always, by jury, yet so little regard was here paid

to a right, which in the neighbouring countries is justly prized as the principal safeguard of liberty, that by neglect and abuse it was rendered almost useless and of scarce any worth, otherwise than as the materials of an institution, which in better-informed and more liberal times might be carried into due effect. In the execution of the task assigned them, the jury adjourned as often, and to such places, as suited with their several engagements in their fishery or farms. At the several meetings they thus held, from time to time, frequently under hedges, but generally in ale-houses, they were supposed to be attended by the Coroner, and were followed by the plaintiff and defendant, who were then to contest with each other which should entertain them the more liberally, till the enormity of this practice was restrained by a positive Act. They heard the witnesses, proofs, and altercation of the parties, and when they thought the matter sufficiently sifted, delivered their verdict, with the depositions in manner already stated. Decrees and judgments at one time were given orally, at another put into writing; the execution of them was committed to the Moar by the Court of Common Law, to the Coroners by the other superior courts, to the Serjeants by the inferior Manor Courts, and to the Sumner by the Courts Ecclesiastical; and if such officers were obstructed in executing a judgment or decree, the mode of enforcing them was the same as that employed for compelling appearance.

In criminal cases, offenders were arrested by the Coroners, and delivered over to the Gaolers, either by their own authority, or by warrant from the Governor, one of the Deemsters, or some of the other chief officers, any of whom, it is said, might, as well as the Governor and Deemsters, commit upon suspicion, in such cases, at least, as amounted to a breach of the peace. In the performance of this part of their duty, the Coroners might call to their assistance the

garrison soldiers, or the inhabitants. The prosecution was upon presentment or indictment; and for frauds upon the customs, by a verbal information from the seizing officers. Whenever an indictment was exhibited, it was necessary it should be approved or found by a jury of six, in a manner similar to that in which bills of indictment in England are found by the Grand Jury. But this exacter form was rarely pursued, almost all prosecutions being commenced by presentment, on the verdict of a jury or inquest in writing. For making these presentments, there were (as has been stated) a variety of inquests, some of them under the direction of the Deemsters or superior courts, others impanelled and attended by the Coroners alone. Juries, on suspicion of felony, were summoned by the Coroners in their respective shadings, either upon what was called a hand suit, a species of bond or recognizance from a prosecutor, or by precept from one of the Deemsters, or the Governor. They proceeded under the direction of the Deemsters, to whom their verdict was returned. When a charge against any person was rejected by such jury, he stood thereby acquitted. When an indictment was found, or a presentment made against any one, if not apprehended, he was to be searched for and arrested; and if then under arrest, was further committed by the Deemsters, to take his trial at the next Court of General Gaol Delivery, in manner already shortly described. When the felon jury found that the fact was a misdemeanor, not capital (which was held to be always the case in theft, where the thing taken away was not above the value of sixpence halfpenny), they presented him as guilty of such misdemeanor, and subject to suffer what punishment, by fine or imprisonment, the Governor in Council should adjudge. In public prosecutions, as well as private causes, the judgment given was to be executed by the Coroner, with the assistance, if necessary, of such military force as the Governor should think fit to order.

The courts possessing appellate jurisdiction have already been stated to be the Keys ; the Governor and other officers, either in some of the superior courts, or as the Staff of Government ; and the Lord Proprietor. The course of appealing lying to the Lord through the Keys, in cases tried by jury ; and from the Governor and other officers, in all other suits, whether instituted before the Governor in the first instance, or brought before him by appeal. It is further to be observed, that in all cases the appeal might be carried from the Lord before the King in Council ; which tribunal, though rarely applied to, was ever the dernier resort.

Amongst a people so rude and simple in their manner as the islanders have been, it is not likely that much attention was ever paid to police. Nuisances, and other offences against public order, seem in the country to have been presentable by the Great and other Inquests ; and the superintendence of the four principal towns was committed to officers styled Captains of the Town.

Such is the general view which (however imperfect) it may be sufficient for the present to have taken of a subject, in itself so confused and inexplicable as the ancient constitution, powers and proceedings of the courts and magistracy of the Island. Towards the latter end of the dominion of the Lords Proprietors, some greater degree of regularity began to be introduced ; a few of the officers then employed in the administration of government in the Isle, being better informed, and better qualified for business, than most of their predecessors ; and some attempts towards reformation, in particular instances, having been made by the Legislature. But the improvement thus effected was not very considerable ; and the whole of the judicial magistracy was nearly in the state above described at the era of 1765.

By the Act of Revestment the courts were left untouched, excepting that the Lord's judicial authority being abolished, the Court of his Majesty in Council became the immediate, as well as the last court of appeal from the jurisdictions within the Isle ; and excepting that the Manerial Courts for the several Sheadings were clearly reserved to the Duke and Duchess of Atholl, by the term *Courts Baron*.

The books and enrollments belonging to them were, shortly after the Revestment, separated from those of the other courts, and delivered to the Steward, Agent, or Seneschal of their Graces ; and since that time these Manerial Courts have been held by that officer, and the respective Setting Quests for the several Sheadings, at the same times and places as formerly. It has been alleged, that by the severance of the Court Baron from the higher authority with which it was theretofore conjoined, its power has been impaired ; and as the law of the Island does not allow the Lord the remedy by distress, is left incompetent to answer its ends. And there may possibly be some foundation for this complaint ; yet when default is made in the payment of the quit rents, fines, &c. (the instances of which, as I am informed, very seldom occur), redress may, I believe, be had with little difficulty or expense, either by a summary proceeding before the Deemster, or one of the High-Bailiffs, or by action in the Court of Common Law ; and amercements in the Lord's Manor Courts may be in like manner enforced. Since the Manerial have been divided from the other courts, the deeds respecting lands have been acknowledged before the Deemster, or one of the High-Bailiffs, and published sometimes in the Court of Common Law, sometimes at the Sheading Courts, or sometimes not published at all ; and some of them, or copies thereof, have been left for custody with the Clerk of the Rolls, and a considerable number with the Agent of the Duke of Atholl ; and the whole of the mode

of authenticating and enrolling such writings is left in a state of uncertainty, injurious to the tenant, as well as prejudicial to the Lord.

In regard to his Majesty's Courts, some alterations have been made since the resumption of the Island. By Acts of Tynwald passed in 1777, directions are given respecting the Courts of General Gaol Delivery, Chancery, Exchequer, and Common Law; with respect to the last particularly, it is enacted that it shall be held four times in the year, therein specified, instead of twice, and that it shall be stationary at Castle Rushen, instead of being itinerant, as formerly. The Great Inquest is abolished. It is provided that the juries should in all cases consist of six, and examine the issue referred to them, and deliver their verdict in open court; and further, that the appeal, in all causes concerning the title of lands, should be to the House of Keys, and in all others to the Governor. The business of an Attorney, which before was undertaken by any person however ignorant and unqualified, was constituted a sort of profession, by rendering the Governor's licence a requisite to the practice of it. Provisions were made for preventing unjust imprisonment; and to supply the want of another Deemster, four new officers were created, termed High-Bailiffs, one in each of the principal towns; and a jurisdiction given to them, analogous to that of the Deemster, within certain limits described in the Act, and in all matters not exceeding forty shillings in value, subject to an appeal to the Deemster, which might afterwards be carried before the Governor. The authority and duties belonging theretofore to the Captains of the Towns, were transferred to the High-Bailiffs, who were empowered to take order for removing nuisances, and entrusted with the local government of the towns over which they respectively preside; and they are now the officers principally employed in police.

Of these regulations (a more minute account whereof need not be inserted here) some have been really beneficial, others may have been hurtful or ineffectual; and they fall very short of that thorough new-modelling which the imperfect frame of judicial polity here, and more especially the forms of all forensic proceedings, require, and for want of which, notwithstanding the amendment that may be introduced in the course of practice, this defective part of the constitution must long continue to produce, rather than to terminate, differences and disorder.

In pursuing the line of investigation marked out by the instructions from the Secretary of State, and the interrogations from you founded thereon, I have been led to take a pretty extensive, though not a minute survey of the affairs of this Island. In every part of its government it is manifest that emendations are wanting. It may be expected, therefore, that I should now point out such as may be most desirable. In my last letter was stated the principles which, as it appears to me, should be preliminary to any plan for the improvement of this country. I have asserted them the more unreservedly, and I rely on them the more confidently, because they are not merely private opinions, but were, I believe, the rules which government prescribed to itself immediately upon the Revestment. The spirit of this policy being maintained, much may undoubtedly be done, by the aid and favour of government, towards advancing the welfare of the Island. I am by no means prepared to lay before you any duly digested scheme of the measures that might be taken for this end; nothing more is in my power at present, than to suggest very briefly such hints as may seem to merit a more deliberate consideration.

Whatever propositions may have come to you from other quarters I am entirely ignorant of; but it is rumoured that some of the inhabitants are disposed, or are likely to be prevailed

with, to join in some representation, intimating a desire that the Keys should be elected by the people ; it may not, therefore, be amiss to observe, that though the right of electing their own representatives ought, doubtless, at a future period, to be extended, under proper restrictions, to the inhabitants of this Isle, as well as other subjects of the British empire, yet the present is not a season when it is needful, or would be expedient to introduce it here. The House of Keys, comprehending nearly all the most substantial and most liberal of the landholders, is in effect, according to its ancient constitution, a fair representation of the country ; and, if it were less so, I should not think a change desirable while there subsists such an influence as is alluded to in a former letter. Popular elections are not calculated to allay animosities, or to alleviate any of the evils arising from the existence of that independent authority, the consequences of which have been so largely dwelled upon, and which ought by no means to be lost sight of in determining the formation of any part of the Legislature.

In the executive department, a primary defect is the want of a due provision for those to whom it is entrusted. This intimation will not (I flatter myself) be suspected by those who know me of proceeding from interested views. The emoluments of the profession were never a principal object of my pursuit ; and I am now arrived at a period of life, when I am more than ever inclined to wish for ease rather than profit. If I had not valued more than either, the honour of serving his Majesty and the public, I should scarcely have left the profession in England, and accepted the office in which I am placed ; much less should I have held it for sixteen years on terms far more disadvantageous than those I was warranted to expect ; circumstances which, I trust, may even with strangers procure me some credit for the disinterestedness I

avow ; and those who are acquainted, as you, gentlemen, must be, with the present establishment, will perceive the deficiency to be so glaring, that, by whatever motives the complaints of it may be dictated, they deserve not to be treated with contempt.

Upon the resumption of the Island the salaries of all the civil officers were settled, in pursuance of information obtained from the then Receiver-General, who was well known to be extremely solicitous (how decently I say not) to set up the revenue department above the civil. Yet he thought, and justly, even at a time when the produce of customs was considerably less than it has lately been, that six hundred a year was not more than a reasonable provision for a Governor of this Island. It being afterwards found expedient to appoint a Lieutenant-Governor, and to give him, in the absence of his superior, the power of a Governor-in-Chief, he seems to have been entitled to an equal compensation, especially as, from his more frequent residence, he performs in fact the largest share of the service. It is surely undeniable, therefore, that since his appointment he has never had an adequate allowance. Let those who are apprized of the amount say, whether there are not many underlings in office far more liberally rewarded than the gentleman who is now presiding over the Island, and exercising jurisdiction over the lives and properties of thirty thousand of his Majesty's subjects.

Whilst the Manks tongue continues to be used by the common people, the Clerk of the Rolls and the Deemster must of necessity be appointed from amongst the natives of the Island, none but natives being sufficiently acquainted with the language ; but they ought to be also lawyers ; and a lawyer who can acquire by practice (what the first of them here do) three hundred pounds a year, will not accept of two hundred pounds per annum merely for the honour of being

placed upon the bench or in the council. The office of the Attorney-General is the only legal one that can properly be given to a person who is not a native; and should always be filled by an English barrister. So long as a military gentleman remains the supreme judge here, the Attorney-General must of course, in all matters of law and equity, be his principal adviser; a part of his duty this which clashes so much with the privilege custom has given him of becoming an advocate in any cause (if not against the Crown) wherein a client tenders him a fee, that few barristers would condescend (I believe) to unite the two characters, though, till the time of the present Attorney, it has been invariably the practice. The bare salary annexed to this office, without such addition as was formerly held out to the present possessor of it, or without some compensation for the surrender of the profits of a licensed but ungentlemanlike practice, is an object little calculated to satisfy the views of a man of merit at the bar, and if not augmented must hereafter either leave the office to be filled by an improper person, or be a temptation to the holder of it to do an improper thing.

Sensible that I am equally free in the following suggestion from any selfish bias, I beg leave further to represent to you the inexpediency, not to say the necessity, of appointing some person who may act under the Attorney-General in the business of the Crown. This business has not only of late years considerably increased, but a great proportion of what belongs to the management of prosecutions (for instance, applying at the offices for process, attending Coroners and Constables in serving it, defraying the expenses of a suit to be reimbursed upon bills afterwards delivered into the Custom-house) is of such a nature, that it cannot be undertaken by any person at the English bar. I would recommend, therefore, that a Solicitor should be appointed by or at the nomination of the Attorney-General for the time being, who should

act under his directions as Solicitor to the Customs and assistant to the Attorney-General; that a due stipend should be provided for him, and such occasional fees assigned him as would render it strongly his interest to be zealous and active in prosecutions of offenders against the revenue; that his bills for such charges and disbursements should be passed by the Attorney-General, and the regular payment of them be effectually secured.

The whole collection of local laws, public and private, civil and criminal, requires a thorough revision and correction, and reformation is more especially needed in the constitution of the judicial magistracy, and in all forensic proceedings; a work which might perhaps be best effected by conforming the system here, as far as circumstances admit, to that of English jurisprudence, to which it bears throughout some analogy. Under this head I would particularly observe, that if the several courts are to be considered as distinct, the presiding officers in each should be different, and that the bounds of their respective jurisdictions should be precisely defined, and the rules of their process and pleadings clearly settled. The trial by jury, already materially improved by being subjected to the inspection and direction of the court, should be regulated so as it may completely answer its end; and it might, perhaps, be advisable that the Great Inquest should be restored, and put under proper regulations. The authority of the spiritual courts should be restrained, at least within the limits to which it is confined in England. If proper means are not provided for the recovering the Lord's dues, let the assistance of his Majesty's courts and officers in levying them, as it must be effectual, be made as easily attainable as possible; or should this method not be satisfactory, a power of distraining might, perhaps, be allowed, subject to such restrictions as are suggested by the Attorney and Solicitor-General of England, in their report of the 30th April, 1781.

For removing the uncertainty respecting the confirmation, publication, and registry of deeds relating to lands, I can point out at present no better mode than that suggested in the Report of the Crown Lawyers in the Island, of the 27th April, 1780.

The revival of the office of a second Deemster, is a measure (I find) very generally wished, and it may, perhaps, be desirable; but on this point I cannot help entertaining some doubt. I can never be persuaded to think that the crowds of farmers and fishermen, drawn together two, three, or more days in the week, at a petty ale-house, where it is not unusual for the Deemster's Summary Courts to be held, and there, perhaps, loitering, drinking, or squabbling, to the neglect of their occupations, and in some instances, possibly, to the ruin of their properties and families, ought to be encouraged; or ever believe, that these assemblies are on the whole conducive to the peace, the good morals, and the welfare of the people or the community: and in this I am confirmed, by observing a spirit of litigation prevalent throughout the country. It deserves to be considered, whether the erecting another of these jurisdictions may not increase the evil. It might be checked by a stamp duty, that would render law-suits more expensive. But I apprehend a more eligible regulation would be that of prohibiting the payment of fees to any judicial officer, making them a suitable compensation, by an augmentation of their annual allowance; and if it be found in fact, that the aid of the magistracy is not attainable with sufficient ease for the inhabitants of the remoter parts of the Island, it may be worth while to inquire; whether the mischief might not be fully remedied by enlarging the jurisdictions of the High-Bailiffs, and bringing within it matters amounting to some larger sum than forty shillings in value, and annexing to it a concurrent cognizance with the Deemster, subject to an appeal to his Worship over petty crimes; a suitable increase

of their salaries being granted in consideration of this addition to their trouble, and the abolition of their fees. But nothing can be more necessary than the providing those public buildings and accommodations, the want or insufficiency of which has been before remarked, a Gaol, a Chancery Court room, and a House of Keys ; and establishing a permanent fund, which may be adequate to the keeping such buildings in repair, and the other ordinary occasions of public expense.

The regulations here suggested, cannot be carried into execution without the authority of an Act of Tynwald, but the means of effectuating them may be left to be further considered, after the propriety of them is fully ascertained.

Besides the alterations required in government, I must beg permission to mention, very briefly, some measures of general policy. One of the first and most important is that of restoring the harbour of Douglas to a state of perfect repair, and preserving it, and indeed the several other ports, in such condition ; and further, so far improving the former, as to give it all the security and convenience its situation calls for. It might likewise save many vessels and their crews from destruction, and be of essential utility to the whole trade of these channels, as well as to this country, if a lighthouse were placed at the southern extremity of the Isle. I would join with the laborious and judicious author of the Political Survey of Great Britain, in recommending that all possible encouragement should be given to the fishery, in which upwards of four hundred boats, and more than three thousand seamen, are employed. To agriculture, which, partly from defects in their polity, is little understood and grossly neglected ; and to manufactories, some species of which are already attempted, and carried on to a small extent, particularly one in linen, from flax produced within the Isle, and one in spinning of cotton ; and, perhaps, manufactures, whether of materials

produced within the country, or imported hither from Great Britain, might be left more free from restraint than at present, without injury to the revenue or commerce of that kingdom. It is desirable that the use of the Manks language should be discountenanced, and that English schools should be favoured. The small foundation at Pele, for instruction in navigation, may not be unworthy of particular notice; and I am inclined to think a seminary in which the higher branches of general education should be undertaken, would, if once established, be found peculiarly adapted to accomplish the valuable purposes of such an institution.

By such means (as have been intimated) this place might, I apprehend, be completely secured from ever becoming again, what it once was, an asylum for smugglers and outlaws; and might be converted into the happy residence of no inconsiderable number of subjects, contributing aid to the parent country in the quota of mariners, derived from hence to its trade and navy; and, blessed with all the comforts of a flourishing society, rejoicing under his Majesty's powerful and beneficent protection.

I have before excused myself from entering at large into the subject of the revenue laws, conceiving it not to fall within my province. I would only observe here, that the want of a Solicitor to the customs, as assistant to the Attorney-General, as well as of any rules or practice to guide the course of prosecutions for the recovery of penalties *in personam*, are capital defects in this branch of the laws; and while they remain unsupplied, the acts respecting offences against the customs cannot be duly enforced.

In the diffusive communications I have had the honour of presenting to you, I have endeavoured to comprise all the intelligence, and all the suggestions, that appeared of most importance in relation to the political state and interests of

this Island ; being confident, that a full representation of the situation of this country, in what way soever it is collected, must, under his Majesty's gracious administration, conduce to that essential improvement of it, which it greatly needs, and of which it is really capable.

I am, Gentlemen,
Your most obedient humble Servant,
WADSWORTH BUSK.

To the Commissioners of Inquiry
for the Isle of Man.



No. 4.

LETTER FROM JOHN QUAYLE, Esq.

ROLLS OFFICE, CASTLE RUSHEN,
THE 17TH DAY OF OCTOBER, 1791.

GENTLEMEN,—

B
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M
IT me to inform you, that having carefully perused, examined, and considered a certain letter addressed to you, and dated the 18th instant, containing a sketch of the history of the constitution and government of this Isle, by Sir Wadsworth Busk, Attorney-General; and I verily believe such letter contains, in brief, a just representation of facts; and as I concur entirely with the Attorney-General in the principles and reasoning therein advanced, I hope it will be thought unnecessary for me to trouble you on the same subjects with any further observations of my own. In the meantime, I am ready to communicate any other information, to answer your laudable purposes, that lies within the compass of my power.

And am, with great respect,

Gentlemen,

Your most humble Servant,

JOHN QUAYLE.

The Commissioners of Inquiry
for the Isle of Man.

No. 5.

THE EXAMINATION OF THOMAS MOORE, Esq.,
DEEMSTER OF THE ISLE OF MAN, TAKEN AT CASTLETOWN,
OCTOBER 19, 1791.

HIIS Examinant saith, he has held the office of Deemster from the month of February, 1773, and since the year 1774 has been the sole Deemster of the Island.

That before the year 1765, he always considered the Bishop and his two Vicars-General, the Archdeacon and his Official, as of the Governor's standing Council in its legislative capacity, and to have a right to their seats, and a voice in the said Council respectively: That since the year 1765 no Acts of Tynwald have passed, but in the years 1776 and 1777, at which time none of the ecclesiastical officers above-named attended: That it was usual, before any bill was transmitted to the Lord Proprietor for his assent, that the Governor and Council, and the House of Keys, should sign the same; and this Examinant considers such signature as an evidence that the party so signing acted in his legislative capacity; and that no person can attest the promulgation of the Act but a member of the Legislature; and that whoever signed the same did it in his legislative capacity: That he considers the Vesting Act has made no difference in the right of the above-mentioned ecclesiastics to attend and act in their legislative capacities, inasmuch as it is clear that they possessed that right prior to the Revesting Act; and he does not find anything in that, or in any subsequent Act, that deprives them thereof.

He apprehends, that when the Governor's Council are called upon to act, either in a judicial or in any other but a legislative capacity, that it is optional in him to summon such and so many of his Council as he may think proper.

This Examinant saith, that till the year 1773 there were two Deemsters, one for the north and the other for the south division of the Island, who held their offices, prior to 1765, by commission from the Lord during pleasure, at small annual salaries. The Deemster of the north division had jurisdiction over the Sheadings of Glenfaba, Michael, and Ayre; the Deemster of the south division had jurisdiction over Garf, Middle, and Rushen Sheadings, and held their courts within their respective jurisdictions.

Glenfaba,	{	Patrick, German.
Michael,	{	Michael, Ballaugh, Jurby.
Ayre,	{	Andreas, Bride, Lezaire.
Garf,	{	Maughold, Lonnan, Concan.
Middle,	{	Braddan, Marown, Sautan.
Rushen,	{	Malew, Arbory, Rushen.

That since the year 1765 to the year 1773 the offices of Deemster were held by patent; and that since the year 1773 this Examinant hath been the only Deemster for both divisions, and holds his office by patent from the Crown during pleasure, at a salary of £100 per annum; and that since the month of January, 1789, he hath received a salary of £200 per annum.

In the Court of Chancery the Governor is the sole judge, calling to his assistance such of his Council as he thinks

proper ; and during the remembrance of this Examinant, the Deemsters have usually sat as Assessors : That the Clerk of the Rolls sits and acts there as Register, and as often as the Governor thinks proper, performs the duty of a Master in Chancery.

The Court of Chancery has a mixed jurisdiction in matters of law and equity, and its jurisdiction in its former capacity arises when any person indebted is about to quit the Island, or having left the Island has effects therein ; in these cases, the creditor may commence an action in the Court of Chancery, and by a short, and the first process, in the nature of a writ *ne exeat regno*, arrests the person or effects of the debtor, upon affidavit of the amount of the debt, and that the defendant, or his effects, is about to withdraw or be removed from the Island. In these cases, if sufficient bail is offered, it may be accepted.

When this process has issued, and a return made that the effects are arrested, and the defendant does not make his defence on or before the fourth court day, the plaintiff is at liberty to proceed *ex parte*, and judgment goes against the effects arrested, and so much are disposed of by the proper officer as are necessary to answer the plaintiff's demand and costs. If the defendant appears and makes his defence, the Governor may, as Chancellor, decide according to the forms of the Common Law Courts, or transmit it to be tried and decided by the Deemster, and this Common Law jurisdiction is by Act of Tynwald.

If the demand is equitable, the pleadings are by bill and answer, similar to those in England, and are signed by the attorneys ; but the witnesses are examined *viva voce* by the attorneys for the respective parties, in the presence of the Clerk of the Rolls, who takes down the depositions in writing, and returns them to the Chancellor.

When the decree is drawn up, it is signed by the Chancellor, and ordered to be enforced by the Coroner in whose district the person or effects are. From this decree an appeal lay before the Revesting Act to the Lord Proprietor, and since to the King in Council, without any limitation of the amount of the subject matter of litigation, upon entering into bonds in the penalty of £100 to prosecute the appeal within six months.

The Court of Chancery grants injunctions to stay proceedings at Common Law, which are granted as matters of course upon the bill praying an injunction being filed; and when the defendant has put in his answer, he may move to dissolve the injunction upon the merits as in England.

With respect to the Court of Exchequer, this Examinant cannot speak to its jurisdiction or process before he acted as Deemster; since which time it has been merely a Court of Revenue, in which the Governor is sole judge, but is assisted, as in the Court of Chancery, by such of his Council as he thinks proper to summon. The Clerk of the Rolls acts as Register of the court; and the general process of this court is described by an Act of Tynwald, for the better regulation of the Court of Exchequer, in the year 1777; but no jury has been made use of since the year 1777 in causes brought before this court. That previous to the year 1765, an appeal lay from the decisions of this court to the Lord Proprietor, and now to the King in Council, upon entering into a bond in the penal sum of £100 to prosecute the appeal within six months: Apprehends there is no limitation of these appeals with respect to the value or amount of the matter in dispute; and the lodgment of the appeal is considered to be a sufficient proceeding to prevent the recovery of the penalty; but no decision, to the best of this Examinant's belief, has been had upon the subject.

That prior to the year 1765, the Sheading or Common Law Courts were held twice a year, and held a mixed jurisdiction of a Court of Law and a Manerial Court, as appears by this Emaninant's report : That since the Revesting Act, the manerial jurisdiction of these courts described in this Examinant's report has ceased, excepting the registering of deeds in some cases ; as the Governor and officers who preside there are no longer considered as the officers of the Duke of Atholl, Lord of the manor of Man, and the manerial business had generally been transacted by the Duke's steward.

That prior to the year 1765, the Governor, attended by the Attorney-General, and some other of his officers, to attest the confirmation of deeds, sat in court : That the two Deemsters were the judges ; and all process issued in the name of one of them, according to their respective divisions ; the Clerk of the Rolls kept the records, and entered all the pleas. This court held cognizance of all real, personal, and mixed actions ; but the proceedings were generally confined to trials respecting real property, and other actions in which damages might be recovered ; but actions of debt were seldom brought in that court : these actions were determined by the unanimous verdict of six Jurors, who were sworn by the Deemsters in court, and then took the evidence on oath out of court, and were to deliver their verdict to the Deemster at or before the next court. These verdicts, with the depositions annexed in writing, signed by the jurors, were delivered to the Deemster, who sent them to the Clerk of the Rolls Office to be recorded ; copies of which were delivered to the party requiring it, and by him produced to the Deemster in evidence of his demand ; and if the verdict was not traversed, or removed to another Jury within twenty-one days from the day of its being recorded, the Deemster determined the causes according to the verdict, and enforced his judgment, which was final, and no new trial was allowed.

Since the year 1765, the only alteration in the proceedings of this court has taken place, in consequence of an Act of Tynwald of 1777, entitled "An Act for the better Regulation of the Proceedings in Courts of Common Law," and "An Act for the better Regulation of Juries before a Court of Common Law."

This Examinant further saith,—That before the year 1765, the Courts of General Gaol Delivery were held twice a year, in the months of May and October. The prisoner was tried by a Jury of twelve men, whose verdict must be unanimous.

That the prisoner had the choice of twelve men that were to try him, but must make that choice out of the Jury impanelled, as mentioned in this Examinant's report.

The offences triable in this court are treason and felony, which are punishable by death. There is no distinct statute of treasons; but several crimes are by the ancient statutes declared to be treason, and various species of offences are declared by the statutes to be felonies. Stealing any property above the value of sixpence is, by the laws of the Island, punishable with death; stealing under that value is petty larceny, and punishable by whipping, fine, or imprisonment.

The only alteration that has taken place respecting trials in criminal cases is pointed out by the Act of Tynwald, 1777, entitled "An Act for Trials in Treason and Felony, &c."

Previous to the Revestment, the Lord Proprietor had the power of reprieving or pardoning the offender, or mitigating the sentence of the court; which power is now vested in the Crown: but a report was and is necessary to be made to the Lord Proprietor, or the King, before execution of the sentence.

Petty larcenies were and are triable before a jury of enquiry of six persons, who took the evidence out of court, which they returned, together with their verdict, in writing

to the Deemster, who transmitted it to the Rolls Office to be enrolled ; and the punishment was fixed at the next Audit Court, which was held whenever the Governor thought proper to call it, and in which the Governor and his officers, and the Deemsters, presided.

The Jury of Enquiry was constituted, and its duties pointed out, by an Act of Tynwald in 1753 ; and the only alteration in the proceeding of this jury is made in the Act of 1777, whereby four persons are declared to be a Jury of Enquiry.

Upon complaint made to the Deemster that any property is lost or stolen, or trespass committed, he issued his warrant to the Coroner to summon and swear a Jury of Enquiry, and also to summon all suspected persons and material witnesses ; and the jury proceed according to the Act of 1753.

In cases of petty larceny the number of jurors is six, and in matters of trespass the Jury of Enquiry consist of four. When the Jury of Enquiry have fixed the damage in case of trespass, the Deemster enforces payment thereof by virtue of the Statute of 1753.

That the Deemster's warrant to summon a Jury of Enquiry is demandable of right ; but the Deemster may require an affidavit to substantiate the ground of complaint on which this warrant is granted.

The Deemster's Court holds cognizance of the several matters mentioned in this Examinant's report, and in this court the Deemster alone presides, and determines the causes brought before him upon the evidence produced, without the intervention of a Jury ; and from his determination an appeal lay to the Governor and his Council, and from them formerly to the Lord Proprietor, and now to the King in Council.

When an appeal is intended from the Deemster's decision, a petition is preferred to him, he thereupon stays proceedings, upon the Appellant's undertaking, within a limited time, to enter into a bond in the penalty of £3 to prosecute his appeal before the Governor within six months.

The Common Law Courts have in several instances a concurrent jurisdiction with this court, and the plaintiff has his choice where to proceed: but the Deemster's Court is generally referred to. This court is generally held on Monday and Tuesday in every week, and oftener if occasion requires, at this Examinant's private court-house at Ballyselly; and when requisite, this court is held at different parts in the Island, but there is no regular circuit for this purpose.

That the proceedings in the Deemster's Courts are the same as before the year 1765.

That the limits of the Baronies mentioned in this Examinant's report are well known; and that prior to the year 1765, the proprietors or occupiers of land within those Baronies had a right to have their suits, civil or criminal, in the said report mentioned, prosecuted in the courts of the said Baronies, in the manner and before the persons likewise therein mentioned. But by the Act of 1777, for the better regulating juries, &c., it is apprehended that all the business and jurisdiction of these courts, except in manerial matters, is transferred to the Common Law and Deemster's Courts.

This Examinant saith,—That the duties of the Grand Inquest were to try all questions respecting boundaries, water-courses, and to present all nuisances, and other matters referred to in the statute 1577. This jury was called and sworn half-yearly, but is abolished by the Act of 1777.

That prior to 1765, the Officers of Police were the Coroners and Serjeants of Baron's Lands, and the Captains of the

several towns, who were Conservators of the Peace in their respective districts : That the Captains of the Towns have the power of removing all nuisances and obstructions in the streets. Since 1765 the Police has been regulated by the Act of 1776 and 1777, in the manner therein described.

Prior to the year 1765 the defence of this Island was entrusted to the Lord's soldiers and a national militia ; the Governor appointed a Captain, Lieutenant, and Ensign in every parish and town : the Captains might compel the attendance of all the male inhabitants between sixteen and sixty years, except the Keys and some few persons by their offices exempted, to act as a militia, as often and for such time as was held necessary for the defence of the country. Four Horsemen, of the most substantial inhabitants of every parish, were appointed by the Captain ; the Horsemen attended yearly, to escort the Governor and his officers to the Tynwald Hill, on the 5th of July ; and this militia was generally called out and trained two or three days in every year. The Lord Proprietor appointed a Major-General, who had the superintendence of all the militia, who occasionally mustered and called out several of the parishes to review them as often as he thought proper. Neither officers nor men received any pay ; and the men armed themselves at their own expense, or with such musquets as were public property. In time of war, watch and ward was kept by some of this militia in different parts of the coast, in rotation, under the direction of the Captains. Beside this force, the Lord Proprietor kept, maintained, and armed, garrisons in his castles of Rushen and Peele.

Since 1765 this militia has never been trained or called out, but some of its old officers remain ; and this Examinant apprehends that a power of calling the militia out still remains.

This Examinant further saith,—That real property, acquired by descent in this Island, may be sold, or mortgaged, or disposed of by marriage settlement or voluntary gift; but cannot be devised, and is not chargeable with debts or legacies. But real property, acquired by purchase, may be disposed of in any manner at the will of the purchaser; and, if not disposed of, is assets in the hands of the heir-at-law, in default of personal property, for payment of all debts, whether by speciality or simple contract, without any preference.⁵⁷

A widow has a moiety of lands of her husband, acquired by descent, *dum sola et casta vixerit*, by way of dower, and has a moiety of his purchased lands during her life, and may dispose of it even in her husband's lifetime to such of her children as she shall think proper;⁵⁸ and this right of dower may be barred by settlement before marriage, and by joining in any sale or mortgage, duly acknowledged by her before the proper officer, after marriage.

All estates in lands are customary estates of inheritance, descendible to the first and other sons according to primogeniture; and the daughters take in like manner, and not as parceners.

The usual mode of transferring real property is by deed poll, of bargain and sale, which, before the Revestment, was generally enrolled in the Rolls Office, and most of them since are deposited in the Steward's office of the Duke of Atholl.

⁵⁷ All lands are now devisable by will, and are liable to be sold for debt.

⁵⁸ The dower of a widow in her husband's lands acquired by descent, of which he died possessed, is correctly stated in the text. She has a similar right in his lands acquired by devise, gift, or settlement. As to lands acquired by purchase for value, described as "bought lands" in the statute of 1662, the rights of a wife are now regulated by the Act of 1852. If she dies in her husband's lifetime, the whole of his purchased land and personal estate remains to him. Under that Act, a widow whose marriage was prior to the 5th of January, 1853, is entitled to one-half of his purchased lands and personal estate absolutely; and if married since that date, she is entitled to one-half of these lands for life and half of his personal estate absolutely. The wife's rights in his real estate, however acquired, cannot be defeated by the husband by either deed or will, unless made under a power; but they may be affected by any *ante* or *post nuptial* settlement or contract made between them. The husband may dispose of his whole personality by deed *inter viros*, but cannot by will deprive his widow of her half.

The husband's right, as tenant by the courtesy, is to one-half of his wife's lands acquired by descent, so long as he remains a widower, and to a moiety of his wife's land acquired by purchase, absolutely; and this right vests on marriage, and is the same now as it was before the Vesting Act.⁵⁹

Lands purchased were before 1765, and are still, devisable by will attested by two witnesses, but it is doubtful whether a will written and signed by the testator, without the attestation of any witness, will pass lands.⁶⁰

Personal property, before and since 1765, was devisable by will attested by two witnesses, or without attestation if written and signed by the testator, but cannot be disposed of to the prejudice of creditors: and in cases of intestacy, the distribution of the personal effects is regulated by statute of distributions of 1777, which Act also regulates nuncupative wills.

Probate of wills is granted by the spiritual court; and the concurrent jurisdiction which the spiritual courts had before the year 1765, and still continue to have, with the temporal courts, for the recovery of debts due from a deceased person, is particularly stated by an Act of Tynwald of the year 1738.

The King's prerogative writs do not run in this Island.⁶¹

⁵⁹ By the Act of 1852, a husband who has married since the 5th of January, 1853, is entitled to an estate for life in one-half of his deceased wife's lands purchased before their marriage.

⁶⁰ The attestation of wills is regulated by the Wills Act, 1869, which is almost verbatim with the English Wills Act.

⁶¹ This opinion is not to be relied upon. It cannot be doubted that Blackstone's statement, that a writ of mandamus issuing from the Queen's Bench runs to all parts of the Queen's dominions, is correct. The proceeding in the time of Charles I. against the judges of William Christian, of Ronaldsway, is an instance of the exercise of the superior power of the Crown in this Island. Blackstone's statement of law as to the writ of habeas corpus extending to all the dominions of the Crown is also correct.

In April, 1849, the Court of Queen's Bench decided in the case of *James Crawford* that, since the Act of Revestment, 5 Geo. III. (and probably before that), the writ of habeas corpus ran to the Isle of Man, as part of the dominions of the Crown, by the Common Law—18 Law Journal, Q.B., 225. It was so

Children in this Island are of age at fourteen with respect to personals, and twenty-one years as to real property ; and may at fourteen demand from their father, mother, or guardian, any personal property, and dispose of it, and reside where they please ; and may recover their assets at fourteen in the Ecclesiastical Courts, and their real property at twenty-one in the Courts of Common Law.⁶²

Fathers or mothers may by will appoint guardians to their children till twenty-one ; and upon the father's death without appointing any one, the Chancellor, or Ecclesiastical Court, has a power of appointing a guardian till the age of fourteen, who is usually the next of kin.

No Manksman, or person having the privilege of a native, can be arrested, except by the Chancellor, upon the first instance, for contempt of courts, or for non-payment of the Lord's rent ; and in all cases of debt, upon surrender of his effects his person is free, but his future effects remain still liable till the whole debt is discharged.

Strangers coming into this Island may be arrested in an action of debt, by process from the Governor, and imprisoned, whether the debt was contracted in the Island or not, upon affidavit made thereof :⁶³ but if the debt is a foreign debt, by an Act in 1736, on the debtor's giving bail for his appearance,

stated by Lord Mansfield in the *King v. Cowle*, in 1759—2 Burr., 856. In the case of *James Brown*, in 1864, the writ was issued from the Queen's Bench to the Island, and it was decided that the Act 25 & 26 Vic., cap. 20, restraining the issue of the writ out of England into any " colony or foreign dominion of the Crown," &c., did not apply to the Island, which, whilst admitted to be a dominion of the Crown, was decided not to be a *foreign* one—33 L.J., Q.B., 194. The provisions of the Act 56 Geo. III., as to the writ of habeas corpus are expressly extended to the Isle of Man in cases where persons are confined otherwise than for some criminal or supposed criminal matter, and excepting persons imprisoned for debt, or under process in any civil suit.

⁶² Previous to the Wills Act, 1869, an infant above fourteen years of age could make a will. This power is extinguished by that Act. Whatever the practice may have been in 1791, children are not now of age at fourteen years with respect to personal estate. They have a right to choose their own guardians at that age.

⁶³ (See Note 11.)

and full surrender of his effects, he is entitled to his personal liberty, though the debt still continues if his effects are insufficient : but if the stranger is sued for a debt contracted in the Island, the creditor may, notwithstanding the surrender of his effects, continue to keep him in prison, so long as he shall allow him such daily sum as the Governor shall appoint, not exceeding sixpence.

THOMAS MOORE.

J. Spranger.

W^m Osgoode.

Will^m Roe.

David Reid.



No. 6.

THE EXAMINATION OF JOHN QUAYLE, Esq.,
CLERK OF THE ROLLS, TAKEN AT CASTLETOWN,
OCTOBER 15, 1791.

HIIS Examinate saith,—That he was Comptroller and Chief Clerk of the Rolls, from the year 1755 to the time of the Revesting Act in the year 1765: That during some months in the year 1755, he executed the offices of Attorney-General, Steward of the Garrisons and Demesnes, Commander of Derby Fort, and one of the three persons appointed to execute the office of Collector: That before the year 1765, the office of Comptroller was generally connected with that of Clerk of the Rolls, though the former was the superior office: That he was entitled to a salary of £31 13s. 4d. currency, as Comptroller; and to a salary of £8 currency, as Clerk of the Rolls. The duty of the Comptroller was to superintend and comptrol all the Lord's revenue and manerial books, the receipts and disbursements of all the officers of the different departments; and was to extract all the fines and amercements from his civil and manerial books; and likewise, with the assistance of the Governor and Council, to audit all the expenses of the Lord Proprietor, sovereign and manerial: That the duty of the Clerk of the Rolls was to keep the records of all the Lord's courts, both sovereign and manerial; and to issue out copies of all records which were evidence: That he was entitled to certain fees on all copies taken of records; but for greater certainty respecting the amount of such fees, he refers to the statute of 1726, whereby he was authorized to receive them: That both these offices, when possessed by different persons, were of the Governor's Standing

Council, where they had a voice, and might demand a seat without a summons: That both these offices, prior to the year 1765, were appointed by commission from the Lord, and held during pleasure: That the duty of the Attorney-General was to prosecute all causes commenced in the Lord's name, in his Civil and Criminal Courts; to take an account of all waifs and estrays; to settle rents on new enclosed lands; to plead for all widows and orphans, and not to receive more than 2d. Manks by way of fee for the same: That he was entitled to a salary of £15 currency, but to no other fees whatever: That he was at liberty to act in his professional capacity; and that he was regularly a member of the Governor's Standing Council.

That the Steward of the Garrisons superintended and directed the repairs of the Lord's houses, forts, and castles; and on particular days provided entertainment at the castle, and ammunition at the garrison and forts; he likewise took an account and directed the application of carriage services, and received the composition for these services when paid: That in this part of his duty he was assisted by an overseer: That he, as Steward of the Garrison, received a salary of £8 Manks, and the Overseer had a salary of 40s. out of the establishment: That the command of Derby Fort was almost a sinecure; that it entitled him to a salary of £8 currency: That as one of the three persons who jointly executed the office of Collector, his duty was to collect all the Lord's port duties and herring customs, and other revenues: That they enjoyed a salary of £20 among them, and were entitled to a fee of 16d. for granting a cocket, to 6d. for an entry, to 3d. for a port entry, and to 6d. for a permit.

And this Examinant further saith,—That since the Revestment in the year 1765, the Comptroller's office and salary has ceased, but that the office of Clerk of the Rolls still continues,

which he holds by patent during pleasure, at a salary of £50 per annum: That he is now Keeper of all Records in his Majesty's civil and criminal courts, and issues copies thereof, which are evidence: That annually, between the 10th of October and 25th of December, he extracts all fines arising from these records, as the Comptroller formerly did, which fines are levied by the Coroners, and paid to the Governor's order: That he act as Register, Prothonotary, Remembrancer, and Chief Clerk in all the King's courts; and in the Court of Chancery he acts as a Master, and has the same fees of office as the Clerk of the Rolls formerly had.

That all records are entered once a year in the proper books.

Since the Revestment, a new office of Clerk of the Council has been created, which is held by this Examinant at a salary of £50 per annum: That he has neither commission, patent, nor written appointment to this office: That he receives his salary under the King's warrant: That he takes no oath of office, and performs no duty in respect thereof, other than that which he formerly did as Clerk of the Rolls.

That the offices of Commander of Derby Fort and Steward of the Garrison ceased upon the Revestment: That a Store Keeper and Overseer of Works has, since that period, been appointed by the Board of Ordnance, whom this Examinant apprehends would be the person authorised to call for carriage services.

That the records of the Island are kept in the Clerk of the Rolls office in the castle: That the first record extant there is dated in the year 1417: That there are none from that period to the year 1422, from which time such as are extant are to be met with in that office: That the originals of all the Acts and Ordinances of Tynwald that have been passed since the year 1422, are there deposited.

And this Examinant further saith,—That prior to the year 1765, the Constitution or Legislature of this Island consisted of three branches; namely, the Lord Proprietor, the Governor and Council, and the House of Keys: That the Standing Council of the Governor were, the Receiver-General, the Comptroller, the Clerk of the Rolls, the Collector, the Water-Bailiff, the Attorney-General, and the two Deemsters: That the Ecclesiastical Estate consisted of the Bishop and his two Vicars-General, the Archdeacon, and his Official.

That the Act of Tynwald 1422 enumerates the Barons to be summoned to pass an Act, who were six in number: That four of the said Baronies there mentioned exist at this day; namely, the Bishop's Barony, now held by the Bishop; the Abbot's Barony, now held by the Duke of Atholl; the Barony of Bangor and Sabel, now held by lease from the Crown by the Duke of Atholl; and the Barony of St. Trinians, now held by this Examinant.

This Examinant apprehends,—That the Standing Council were essential members of the Legislature: That the ecclesiastics were sometimes summoned, but that it was optional in the Governor whether he would require their attendance; and he conceives the Deemsters were part of the Governor's Standing Council, in its legislative capacity, from being frequently named as parties in the different Acts of Tynwald, and from their constant attendance on the Council when acting in its legislative capacity. He apprehends that the Duke of Atholl, as Lord paramount of the Isle, and proprietor of the Abbey of Rushen, has, since the Revestment, a right to be summoned: That he does not know what number of the Council were, before the year 1765, necessary, with the Governor, to constitute a House, to act in their legislative capacity; but on all occasions the Governor's presence is absolutely necessary. He does not know any precedent or

instance where any number is specified, except for the purpose of the confirmation of deeds, where two must be present with the Governor; but thinks it was necessary, prior to the year 1765, that three of the Council at least must have concurred with the Governor to make any Act binding in their legislative capacity.

This Examinant further saith,—That from time immemorial, and from everything upon record that he has seen, the House of Keys has constituted, and does consist of twenty-four members. Upon a vacancy the House of Keys nominated, and presented in writing, the names of two persons to the Governor, for the purpose of supplying the vacancy: That the Governor chose which of the two he thought proper to appoint, and caused him to be sworn in a member of the House of Keys: That he never remembers, nor has heard of any instance, where the Governor has refused both the persons so nominated: That the person so sworn in was a member for life, unless expelled; of which there are instances in the turbulent times of Charles the First. He apprehends that the qualifications necessary to be a Key are, to be of the age of 21 years, and to be seised in fee of at least one quarterland, or of intacks of the annual rent of three pounds in the Lord's books; and he finds this opinion upon a judgment of the Deemsters and twenty-four Keys, made in the Exchequer Book sometime about the year 1719, whereby the being seised of a quarterland, or of intacks to the value of three pounds annually, gives to the person so seised the privilege of a native. He apprehends that if a Key were to part with his estate, that it is in the power of the House to declare his seat vacant: That residence is not necessary; but he conceives that the House might declare a seat vacant upon continued absence.

That seats were vacated by members taking any office by the Lord's commission, whereby they became of the Standing

Council, or were appointed Deemsters ; and that seats were suspended by any appointment *pro tempore* from the Governor.

That the officers of the House are, a Speaker and a Secretary. The House elect a Speaker among themselves, whom they present to the Governor : That he remembers no instance where the person so chosen has been refused by the Governor, or afterwards removed by the House.

That before the year 1734, all the expenses of the House were borne by themselves. Since that time a small fund has been raised of the amount of £12 or £14 annually, by the payment of 9d. out of the tax levied on all persons who keep public-houses ; out of which they pay £3 to the Secretary ; 1s. per diem, during the session, to a constable ; and the remainder is expended in stationery, fire, candle, and other incidental expenses.

This Examinant further saith,—That the only privileges attached to a seat in the House of Keys are, to be exempt from all services on courts or juries, and from the performance of carriage service ; and that the members were licensed to kill game.

That the places of meeting of the House of Keys are at Castletown and St. John's Chapel, whenever the Governor thinks proper to assemble them by his precept to the Coroners, directing all the members within their Sheading to meet at the time specified : That such meeting is generally at their own request : That the Governor may either refuse or comply with such requisition : That when the House is assembled, the continuance of their session is at their own discretion, unless adjourned by the Governor, who, as this Examinant apprehends, may interfere and adjourn them, *sine die*, or oblige them to finish their business before they part ; and has heard of an instance where the Governor has exercised this

power, between the years 1750 and 1754, on which occasion the House remonstrated to the Lord Proprietor, who confirmed the Governor's proceeding: That when their business is finished, they make a return to the Governor of their proceedings in writing, and disperse without any form of prorogation; that until this return is made, they may adjourn at pleasure, or appoint a committee for the carrying on of any particular business.

That thirteen members are necessary to constitute a House, and they cannot proceed to business without that number; nor is any Act affecting the public legal or valid without the concurrence and subscription of thirteen members.

That, generally speaking, every vacancy that has happened during a recess, is reported and filled up at the next meeting of the House of Keys; but this rule is not always strictly adhered to.

That previous to the year 1765 there were generally four seasons at which the Governor, his Standing Council, and the House of Keys met: That they usually met on the 5th of July at St. John's Chapel; twice at Castletown at the Courts of General Gaol Delivery, in the months of May and October; and once at Castletown by precept, generally published at St. John's Chapel on the Tynwald Hill, to assemble on a day appointed, which was generally in the month of August.

At any of these meetings, or at any occasional meeting of the Governor and Council and Keys, any law might be proposed, either by the House of Keys or the Governor and Council, excepting in the case of money bills, which this Examinant has heard that the House of Keys claim it as their privilege to originate. A conference usually took place without being regularly demanded; and when they had agreed upon the general principles, a person was appointed to prepare

a bill accordingly, which, when drawn, might originate in either House. When the draft of the bill was prepared, and intended to originate from the Governor and Council, the draft was delivered to the Governor, who summoned or fixed a time for the Standing Council, by his Secretary, to read over and debate the same.

That this Examinant acted as Secretary from the year 1755 to the year 1765, and does not recollect one instance in which an ecclesiastic was summoned to attend upon such an occasion : That there is no journal or minutes of the proceedings of the Governor and Council in their legislative capacity, except the Acts and ordinances. He thinks that, before the year 1765, the ecclesiastical members had no right to attend in their legislative capacity unless summoned ; and forms this opinion upon his construction of their oath, and what he considered was the practice of the Governor during the time he has been in office, and from prior records.

That when the bill had been debated and agreed upon by the Governor and Council, the Governor convened the Keys, who took the bill into consideration in their own House, and had a right either to reject or amend ; if they agreed to it, with any amendments, the House of Keys brought it up to the Governor and Council, and then the amendments were settled. He never knew an instance of a bill being rejected by the Keys, or lost upon any amendments suggested by them : When the bill was thus settled, it was engrossed and signed by the several members of the Legislature who had attended the progress thereof : it was then transmitted to the Lord Proprietor, who had a power of rejecting or giving a general or qualified assent. If it was approved, it was returned with the Lord's approbation signified in writing, and was then promulgated at the Tynwald Hill, by reading it fully in the English, and giving the substance of it in the Manks language,

and was then signed in St. John's Chapel by as many as chose to put their names to it, and from thence became an Act of the Legislature of the Island.

If the bill originated with the House of Keys, the same forms attended it *mutatis mutandis*.

This Examinant believes,—That before the year 1765, the debates were carried on publicly, and that persons not members might attend them; and that the public were generally acquainted with the purport of the laws then in agitation.

That no alteration has taken place since the year 1765, either in the mode of electing or the qualification of the Keys.

That this Examinant knows of no variation in the passing of laws since the year 1765, except that of being transmitted to the King instead of the Lord Proprietor, and that they are returned by the Secretary of State for the Home Department, who signifies his Majesty's consent to the same.

This Examinant saith,—That the duties of the Governor and Council, when not acting in their legislative or judicial capacity, was, in cases of emergency, to act for the public good in a summary way, without waiting for the concurrence of the Lord Proprietor or the House of Keys; as in laying an embargo on vessels, exporting grain in times of scarcity, as was done in 1645. This Council met when called together by the Governor, who alone had the power of convening; and this Examinant believes, that neither the Bishop, Vicars-General, Archdeacon, or Official, had a right to attend this Council without a summons before the year 1765; and this Examinant thinks, that, since the Revestment, these ecclesiastics have still less right to attend this Council with or

without summons, as they do not hold their offices under any appointment from the Crown, but from a subject.

JOHN QUAYLE.

J. Spranger.
W^m Osgoode.
Will^m Roe.
David Reid.



No. 7.

THE EXAMINATION OF JOHN QUAYLE, Esq.,
CLERK OF THE ROLLS, TAKEN AT CASTLETOWN,
OCTOBER 21, 1791.

THE Great Inquest consisted of twelve men out of each Sheading, who were sworn into office every half-year, and continued to act in such office as often as they were called upon during the said half-year, and made their presentments to the Deemster as often as required, or otherwise at the next Court of General Gaol Delivery, and were attended either by the Coroner, or Lockman his deputy, whenever they were called upon to act.

The long Juries consisted of twenty-four men chosen out of and acted, when impanelled for that purpose, as a Traverse Jury, and were suppressed by an Act of Tynwald.

The Setting Quest were in the nature of a Homage Jury, and consisted of four persons out of each parish, who are occasionally changed as necessity might require. After having served some years, they were sworn to examine and present the rightful tenant of any lands upon the demise or alienation of any former tenant, and also to apportion the rent of lands upon any division that might take place between the land owners. This Quest exercised the duties of their office within their several parishes as often as occasion required, and made their respective presentments at the next Sheading Court held for the parish for which they were chosen. For the more particular account of the duties of their office, this Examinant refers to the *Liber Assedationis* and *Liber Vastarum*, among the manorial records of the Duke of Atholl.

JOHN QUAYLE.

This Examinant saith,—That the earliest records in his office of the proceedings of the Court of Exchequer, is in the year 1580, and of the proceedings of the Court of Chancery is in 1578, and of the Common Law Courts in 1417; and all the records that are extant of the above-mentioned courts are to be met with in his office: and he believes that the transactions of each year's proceedings in the said several courts are regularly entered, and to be found in these records.

JOHN QUAYLE.

J. Spranger.

W^m Osgoode.

Will^m Roe.

David Reid.



No. 8.

THE EXAMINATION OF JOHN TAUBMAN, Esq., SPEAKER OF THE HOUSE OF KEYS, TAKEN AT CASTLETON, SATURDAY, OCTOBER 15, 1791.

HE HAS been a member of the House of Keys these forty years and upwards, and Speaker for six or seven years.

The House consists of twenty-four members. Whenever a vacancy happens, at the next meeting of the House, when the vacancy is to be filled up, every member of the House is at liberty to propose a person to succeed to the vacancy; and those who are so disposed propose a name, and the Speaker collects the opinion of the House individually, and returns to the Governor the two persons who have the greatest number of voices in their favour; and the Governor makes choice of one of the persons so returned; acquaints the Speaker therewith, and gives directions to the Clerk of the Rolls to administer the usual oaths to the party so chosen, in the presence of the Governor.

Never recollects an instance where the Governor rejected both the persons returned by the Speaker.

The person so chosen is a member for life, unless the Governor accepts his resignation, which he may refuse to do, and as he often has done in this Examinant's time; apprehends that the House has a power of expulsion for malpractices, and believes there are instances upon record of their exercising such power.

The acceptance of the *Lord's* commission, appointing the party to any of the offices of the Governor's Council, or the office of Deemster, vacates the seat; but the Governor's commission to any of these offices suspends but does not vacate

the seat. This Examinant having executed the office of Deemster in the year 1761, under the Governor's commission for two years, during the indisposition of his uncle; and upon his uncle's death, having received a new commission from the Governor, under which he acted a short time as Deemster, and this matter coming on to be debated in the House of Keys, it was determined that he had not vacated his seat, by having accepted this commission from the *Governor* and not from the Lord.

That it has been the general custom to elect persons of landed property within the Island into the House of Keys, but the exact quantum of such property necessary to constitute a qualification to be elected has not hitherto been ascertained; but this Examinant does not apprehend that a person not possessed of landed property within the Island is eligible into the House of Keys.

That a person must be of the age of 21 years to be elected. That a person not a native of the Island having landed property is eligible.

That residence upon the Island is not necessary; but in cases of continued absence the House may apply to the Governor to have the seat declared vacant.

That the House have a power of electing a Speaker, who is to be approved of by the Governor; and it is considered as an office for life. They likewise appoint a Clerk.

The Speaker has no emolument arising from his office. The Clerk's salary is £3 per annum, which, together with stationery and other incidental expenses, is paid out of a small fund of about £12 or £14 per annum, arising from a portion of the tax for licensing public-houses.

That the debates of the House of Keys are, at the discretion of the House, carried on either with open doors or in

private. The debates were generally carried on with open doors; and this Examinant has known instances of petitions presented against bills pending, and days appointed for hearing the parties in person against such bills. That the House is capable of containing about thirty-six persons.

That the Keys meet in their legislative capacity as often as the Governor thinks proper to convene them by his summons; when they are once assembled, the duration of their session is at their own discretion, and the Governor has no power to prorogue them.

That the House may adjourn itself, and appoint committees to transact business. When the business of the session is finished, the Speaker informs the Governor thereof, and requests to know if he has any further commands, and then adjourns the House *sine die*.

Thirteen members make a House, and that number must concur to render any Act valid.

Vacancies, generally speaking, are filled up at the next meeting of the House; but there are instances to the contrary.

Bills may originate either with the Governor and Council, or the House of Keys; and no peculiar privilege claimed by the House of Keys with respect to tax or money bills.

If a bill originates in the House of Keys, the Clerk, or any member, may prepare the same, which is discussed in the House; and when approved of by thirteen at least, the Speaker with one or two of the members present it to the Governor and Council, who debate it in their House; and if approved of by them, the Governor orders it to be engrossed; the Governor sends a message requesting the attendance of the House of Keys in the Council Chamber, and the bill is there read in the presence of the Governor, Council, and Keys, and signed by as many as approve of the same. The bill was

then sent over to the Lord Proprietor for his assent, which was general or qualified ; and when returned with the Lord's assent, the Governor ordered a Court of Tynwald to be held, where the bill was read over in the English and Manks language, and signed by the Governor, Council, and Keys, and then had the force of a law.

If in the progress of a bill it was returned with amendments by the Governor and Council, the House of Keys had it in their power to reject or accept these amendments ; and if rejected, the bill was thrown out, of which this Examinant has known instances.⁶⁴

⁶⁴ By "The Tynwald Proceedings Act, 1876," the powers of the Keys are extended and regulated on several important points. As to the examination of witnesses, the following sections, 3 & 4, of the Act, confer new powers upon them :—

"3. Witnesses may be summoned to appear before the Court, or either House, or a committee specially empowered by the Court or either House to take evidence ; and the production to the Court, or either House, or a committee, of papers, documents, or records receivable or producable in evidence and pertinent to the matter of inquiry may be required as follows (that is to say) :— In the case of the Court, or of the Council, or of a committee of the Court or Council, by order of the Governor ; and in the case of the House of Keys, or of a committee thereof, by order of the Speaker. And the attendance of witnesses and the production of papers, documents, or records may be enforced in like manner as in the case of witnesses or persons summoned to appear personally or to produce documents before a Court of Justice.

"4. The Court as heretofore, and either House, or a committee of the Court or either House specially empowered to take evidence may examine witnesses on oath, and for that purpose may administer an oath to any such witnesses."

The proceedings of the Tynwald Court and of the Keys, in cases of contempt, are now regulated by the following sections of the Act ; the Acts of 1647 and 1737, and section 121 and part of 125 of 'The Keys Election Act, 1866,' respecting contempts, being repealed :—

"5. It shall be lawful for the Court or either House to punish by fine or imprisonment, or by both, contempts committed in the presence of the Court or House (as the case may be) while it is sitting, in the same manner and to the same extent as a Court of Justice has power to punish contempts committed in its presence.

"6. Whosoever shall maliciously publish any libel of and concerning the Tynwald Court or either House constituting such Court, or of or concerning any member of either with reference to his conduct in the discharge of his duties as such member, shall be guilty of a misdemeanour, and be liable to a fine not exceeding fifty pounds, and to be imprisoned for any term not exceeding six calendar months.

"7. It shall be lawful for the Governor, upon receiving information that any such offence has been committed, to direct the Attorney-General to institute

It is the privilege of a member of the House of Keys to be exempted generally from all services to the Lord, either by attendance on his courts, watch and ward, or carriage service ; and it was always considered that they were entitled to kill game : That the Revesting Act has made no alteration in their

a prosecution against the alleged offender, and it shall be the duty of the Attorney-General to institute such prosecution accordingly. The costs of the prosecution shall be borne and paid out of the Public Funds."

The payment of costs in private bill cases, and others, is provided for in the following sections :—

" 8. When either House or a committee on a private bill shall decide that the preamble is not proved, or shall insert in such bill any provision for the protection of the petitioner, or strike out or alter any provision of such bill for the protection of such petitioner ; and further, if the House shall decide with respect to any or all of the petitioners against the bill that such petitioner or petitioners has or have been unreasonably or vexatiously subjected to expense in defending his or her rights proposed to be interfered with by the bill, such petitioner or petitioners shall be entitled to recover from the promoters of such bill his or their costs in relation thereto, or such portion thereof as the House may think fit, such costs to be taxed as the costs incurred in a superior Court of Justice, or the House may award such a sum for costs as they shall think fit, with the consent of the parties affected.

" 9. When the House or a committee on a private bill shall decide that the preamble is proved, and, further, if the House shall decide that the promoters of the bill have been vexatiously subjected to expense in the promotion of the bill by the opposition of any petitioner or petitioners against the same, then the promoters shall be entitled to recover from the petitioners, or such of them as the House may think fit, such portion of their costs of the promotion of the bill as the House may think fit, such costs to be taxed as the costs incurred in a superior Court of Justice, or such a sum for costs as the House may award, with the consent of the parties affected : Provided always that no landowner who *bond fide* at his own sole risk and charge opposes a bill which proposes to take any portion of his property for the purposes of the bill shall be liable to any costs in respect of his opposition to such bill.

" 10. In any case where by statute the orders or proceedings of a committee, or of any Board, body of persons or person, are liable to be revised, altered, varied, or rescinded by the Court, on the application of any person aggrieved or interested, the Court shall have power in its discretion to award costs to be paid by or to any petitioner in like manner as a superior Court of Justice may order payment of costs in a suit ; such costs to be taxed as the costs incurred in a superior Court of Justice, or such a sum for costs as the Court may award with the consent of the parties affected.

" 11. All costs to be awarded under this Act may be recovered as a debt.

" 12. In any case, it shall be lawful for any person from whom the amount of any costs payable under this Act has been recovered to recover from the other persons or any of them who are liable to the payment of such costs a proportionate part thereof, according to the number of persons so liable and according to the extent of the liability of such persons.

" 13. In any case when, in accordance with standing orders of the Court or of either House, a deposit of money or stock is made, or security is given with respect to the application to Tynwald for an Act, the money or stock so deposited, or the security so given, shall, in addition to any other claim to which the deposit or security may be liable, be a security for the payment by the

proceedings in their legislative capacity, except as to the mode of the royal assent being now given by the Secretary of State for the Home Department.

The House of Keys, in their judicial capacity, was convened by the Governor once a year at least, generally in the month of October, and oftener if he thought proper, for the hearing of appeals. They had an appellate jurisdiction in all causes respecting landed property, from which there only lay an appeal to the Lord Proprietor before the year 1765, and to the King in Council since, and no limitation in these appeals as to the value of the property in question; and on an appeal from their judgment to the King in Council, the appellant is under the necessity of entering into a bond in the penalty of £100 for the prosecution of the appeal within six months. Before the year 1765 and to the year 1777 they were a court of appeal, in the first instance, from the verdict of all juries in civil cases, and from the determination of the House of Keys to the Lord Proprietor; but in the year 1777, this jurisdiction was, by an Act of Tynwald, taken away in some cases.

That the House of Keys was a component part of the Tynwald Court, and of the Court of General Gaol Delivery, prior to the year 1765, and continues so to be.*

That previous to the year 1765 this Examinant acted as Steward of the Lord's Garrisons and Demesnes for several years, and in that capacity had the superintendence and

promoters of the bill of all costs (if any) payable by them under this Act; and every person entitled to recover any costs so payable shall accordingly have a lien available for the same on the money or stock so deposited, or on the security given: Provided that where several persons have the lien for an amount exceeding in the aggregate the net value of the money or stock, or of the amount of the security given, their respective claims shall proportionately abate."

The foregoing note ought properly to have been appended to the portion of the report which treats of the powers, &c., of the Keys, but was accidentally omitted in printing.

* (See Note 33.)

directed the application of the Lord's carriage services for the south division, and remembers that these services which he superintended were applied to the repairs of Castle Rushen, and upon the Lord's demesnes.

JOHN TAUBMAN.

This Examinant further saith,—That the House of Keys have an original jurisdiction in matters of complaint against their own members in their public capacity, in all matters of libel or scandal against any of the public magistrates or the House of Keys, and also in all matters of complaint of malpractice of the Deemsters, the Vicars-General, and all public magistrates.

And this Examinant apprehends, that the attestation of the Governor and Council and House of Keys to the promulgation of an Act of Tynwald, is the act of those persons severally signing the same in their legislative capacity.

JOHN TAUBMAN.

J. Spranger.
W^m Osgoode.
Will^m Roe.
David Reid.



No. 9.

COPY OF THE MOST ANCIENT RECORD IN THE
ISLE OF MAN : ANNO DOMINI 1417.

¶ AEC Indentura facta intr Thurstanu De Tyldesley,
Rogm Haysnap, Commissionan Dni Johis de Stanley
Dni Manniæ & Insulas, ex una Pte et Johem Clerk
Judicem Manniæ, Willm Skerf, Reginald Stevenson, Willm
de Yvenowe, Johem Rede, Gilbtum M'Wanty, Patric M'Jon,
Andrew Johem M'Renyn, Gilbtum M'Haughan, Patriem
M'Cane, Willm M'Alisandre, Patric Tomelynson, Gilbtum
M'Isak, Gilbtum M'Andras, Marcum M'Otter, Donald
M'Croyne, Donald M'Breve, Willm M'Crystyn, Willm
Abelson, Doncan Abelson, Johem M'Fergus, Hug M'Knallyt,
Johem M'Sealy, Patric M'Helly & Andr Raynelson *xxiiij* ^{or} Claves Man ex alt a, Testat, q^d Pda *xxiiij* ^{or} Claves Legis cm
Judice Man dicunt & Plege comuni judicant q^d quicunq ligens
tenens vel ligei tenentes Dni Man foresfecit seu foresfecerint
in aliqua causa feloniae & Pdiconis fugans, retrahens, vel
removens a terra Dni Man in Libertates Baronu & inde
requisitus fuerit seu fuerint requisiti P Dnu Man, & ejus
ministros, ad revertend ad terram & ad justificationem legis
suæ et si inde se excusat aut se excusant, non concensiendo
revenire & aliquis illor Baronu infra Domin Man eum vel
eos, eam vel eas, retineat seu retineant P textu libtatum suay
vel libertatis suæ feu aliqua alia causa emergente q^d tunc
forisfaciet Dno P quoli Delicto retencionis P aliqua causa
sup dict *lx^a* et de corpe P dica tnsgressoris in aliquib
causis sup dicis delinquentis, respondeat aut respondeant,
ad gaolam aut prisonam Dni Man et hoc sub pœna forisforturæ
omm Libertatum Suay in Mann seisit, item dicunt & P lege

communi judicant q^d nullus ligeus tenens Dni neq; vivens infra
 Dominm Manniæ, exeat, remaneat, neq; retrahat a terra Dni ad
 terram aliquoy Baronu ad moram trahend sine licencia Dni
 sub poena supta \wp felonij, In cujus rei Testioum tam \wp dict
 $xxiiij$ Claves legis & Judex qua \wp dica Comissionarij Sigilla
 sua alternatim apposuerunt Dat apud Castru de Rushen die
 Martis $xvij$ ^o die Januarij anno Dni Millimo *cccc^{mo} xvij* &
 Regalitatis Dni Man Quinto.⁶⁵

Will. Reynold
 Skerf. Stevenson.

Johem
 Clerk.

[Here follow the other names and seals.]

⁶⁵ The following is a translation of this document, given by the Rev. Wm. Mackenzie, in Vol. III. of the Manx Publication Society, p. 151 :—

" This Indenture, made between Thurstan de Tyldesley and Roger Haysnap, Commissioners of Lord John de Stanley, lord of Man and the Isles, on the one part ; and John Clerk, Deemster of Man, William Skerf, Reginald Stevenson, William de Yvenowe, [&c.,] the 24 Keys of Man, on the other part, witnessesth, That the said 24 Keys of the Law with the Deemsters of Man say, and for common law adjudge, that if any liege tenant or tenants of the Lord of Man shall have committed a crime, in any case of felony or treason, and shall have fled, withdrawn, or removed from the land of the Lord of Man into the liberties of the Barons, and shall have been required by the Lord of Man or his ministers to return to the land and to a lawful trial, and if excuses be offered and return be refused, and if any of those Barons under the Lord of Man shall retain him, her, or them, under pretext of liberty, liberties, or any other cause whatever, then he shall forfeit to the Lord for every such offence of retention forty shillings, and shall answer for the body of the fugitive transgressor at the prison of the Lord of Man, and this under penalty of forfeiting all his liberties possessed in Man. They also say, and for common law adjudge, that no liege tenant or subject of the Lord of Man shall go, remove, or withdraw from the Lord to the land of any of the Barons to spend any time there, without the Lord's licence, under the penalty above mentioned for felonies.

" In testimony whereof the said 24 Keys of the law, and the Deemster, along with the said Commissioners, have alternately affixed their seals.

" Given at the Castle of Rushen on Tuesday, the 18th day of January, 1417, and in the fifth year of our Regality."

No. 10.

INSULA MONÆ.

To John Spranger, William Osgoode, William Roe, and David Reid, Esquires, His Majesty's Honourable Commissioners of Enquiry now in this Island:

The Memorial of the Right Reverend Claudius Lord Bishop, and Evan Christian, Vicar-General, in behalf of themselves and the other Ecclesiastics, constitutionally members of His Majesty's Council in the said Isle;

SHEWETH,—

THAT whereas his Majesty, in that royal and paternal care and solicitude for the happiness and prosperity of all his people which have invariably distinguished his reign, hath now been graciously pleased more especially to extend that goodness to the Isle of Man, in the beneficent wish to render it also prosperous and happy, by sending Commissioners to enquire into, and report upon its state and condition in every respect; the memorialists, imprest with the most lively sentiments of gratitude and loyalty to his Majesty for such mark of the royal goodness, embrace the opportunity so graciously offered, of stating to his Majesty's Commissioners some grievances, under which for some time they have laboured, and which, they apprehend, not yet entirely removed.

That by the constitution of the said Isle, the Bishop, the Archdeacon, the two Vicars-General, and the Archdeacon's Official (as may appear by the Statute-Books through their whole extent, until the years 1776 and 1777), have been

considered as members of his Majesty's Council, or second estate or branch of its Legislature : That, as such, the present Lord Bishop and the other said ecclesiastical officers have been duly sworn in members of the said Council, having had in legal form the subjoined oaths administered to them ; yet, notwithstanding, that in the years 1776 and 1777, when first any laws or Acts of Tynwald had, from the period of the Revestment of the said Isle in the Crown, been passed in or by the Legislature of the Isle, and when (it may deserve remark) laws were enacted materially affecting, or intending to affect, the rights and jurisdictions of the memorialists, they found themselves excluded from their seats in the said Council, and from every share whatever in the Legislature of their country. And it may not be improper to add, that such exclusion has appeared to the memorialists to have been by the mere will and pleasure of the Governor, or Lieutenant-Governor, for the time then being, without any crime or misdemeanor whatever being stated, alledged against, or (that they know of) imputed to the memorialists individually or collectively, and, as they humbly conceive, not in strict accordance with the words or spirit of the oath which, on entering on his office, the Governor or Lieutenant-Governor of the Isle of Man is by law enjoined, and doth take.

That, until the periods of 1776 and 1777 aforesaid, the right of the said ecclesiastical members to their seats and share in the Legislature of their country had never, that the memorialists understood or heard, been called in question ; but that since, from (as they conceive) the precedent then made, there are who deny them that right ; and that very recently, when the present Lieutenant-Governor, to receive his Majesty's Commissioners, and to lay before the Legislature of the Isle the instructions with which, respecting the Isle, the said Commissioners were charged (matters of the highest

importance, and of the most general concern to all and every his Majesty's subjects in the Isle!) thought it his duty to assemble the said Legislature, and in that the *whole* of his Majesty's Council, and not any one part of it, his Majesty's Attorney-General was pleased, concurred with by the Clerk of the Rolls (whose own seat is doubtful), to take exception to, and to protest accordingly against your memorialists being admitted as members. The Lieutenant-Governor, however, concurred with by his Majesty's Deemster or Chief Judge, was pleased (after admitting the protest to be entered on the minutes) to overrule the exception, and to admit the memorialists to their seats, and to report the matter to his Majesty's Secretary of State.

That the Bishop, however, not only as the Head of the Church, but as Premier Baron, possessing a great extent of territory, and having under him a numerous tenantry, always, when present, signed all Acts of legislation next to the Governor; and that the inferior ecclesiastical officers, as judges in their several courts, were held to be essential members of the Legislature; and that, as neither by the Act of Parliament of 1765, by which the Island became revested in the Crown, or by any subsequent Act, law, or instruction whatever, they appear to have been deprived of any right, privilege, or immunity formerly enjoyed by them; they, therefore, humbly conceive, that it neither was nor could be competent to, or in the power of, any Governor, legally or justly to deprive them of such right, privilege, or immunity, at his will and pleasure, or even as he might have been advised by any other one or more counsellors.

The memorialists likewise beg leave to observe to his Majesty's Commissioners,—That the Bishop's cathedral, which is situated within the Castle of Peel, needing some reparation upon the decease of Bishop Hildesley, his successor,

the Right Reverend Richard Lord Bishop (as was usual in such cases) preferred his petition to John Wood, Esquire, then his Majesty's Governor of the Isle, praying that he might order a jury to view, estimate, and report the dilapidations thereof, and what sum or sums of money would be sufficient to put the said cathedral into a proper state of repair; and that the executors of the said deceased Bishop might be ordered to pay the same to the petitioner for that purpose. That the Governor so far granted the prayer of the said petition, as to order a jury to view, estimate, and report as aforesaid; but afterwards ordered, that neither the petitioner nor the said jury should have access to the said cathedral. That at that period a trifling sum of money would have completed the said repairs; but that now, owing to the neglect thereof, and to the Governor's said inhibition, as well the petitioner as his successor in the see, have been ever since deprived of the use of their cathedral; and the same is now in so ruinous and dilapidated a state as to be totally useless, and will require a very considerable sum of money to put it into even a decent state of repair.

The memorialists beg leave also to represent to you,—That St. John's Chapel, in the Parish of Kirk German, in which the successive Vicars of that extensive parish were accustomed, time immemorial, to officiate every Sunday afternoon, during the summer season, for the convenience of the parishioners who lived at a great distance from their parochial church, is likewise, at present, in so ruinous and dilapidated a state, as to be altogether unfit for the aforesaid purpose; and that the late Lieutenant-Governor of the Isle withdrew the key of the said chapel from the present Vicar, and deprived him and his parishioners of the use of the said chapel.

The memorialists therefore pray,—That his Majesty's Honourable Commissioners may report to his Majesty, that

the memorialists ought to be confirmed in their places and seats in the said Council ; and that the said cathedral ought to be repaired, and peaceable possession, and the use thereof, be allowed to the present Bishop and his successors in this see ; and likewise that the said chapel ought to be repaired, and restored to the Vicar and parishioners of the said Parish of Kirk German, for the purposes of divine worship ; and the memorialists, as in duty bound, will pray, &c.

**CLAUD. SODOR AND MAN.
EV. CHRISTIAN.**

Bishop's Court, 21st October, 1791.

THE OATH ADMINISTERED TO THE BISHOP.

My allegiance to the King's Majesty of Great Britain, and my former oaths (according to the Laws there) reserved ;

I swear to be true to the Right Honourable —— Earl of Derby, and to his heirs, and will perform all such duties unto them as belongs to my place, being Bishop here ; and to my power shall maintain and defend the ancient laws, statutes, and customs, proper and belonging to this Isle, and prerogatives due to the heirs thereof ; *and with my best advice and counsel be aiding to the Captain of this Isle, or Governor for the time being, for furtherance of the government and benefit of the said Isle.*

So help me God, and by the contents of this Book.

ARCHDEACONS, AS THE ABOVE OATH.

VICARS-GENERAL OF THE ISLAND.

1. Your allegiance to the King's Majesty of Great Britain reserved :

2. You shall swear to be true, and true faith and fidelity to bear, to the Right Hon. —— Earl of Derby, and his heirs, during your life.

3. You shall to your power maintain and defend the ancient laws, statutes, and customs proper and belonging to this Isle, and the prerogatives due to the heirs thereof, as appertaining to your office and place, according to the trust in you reposed ; *and with your best advice and counsel be aiding and assisting to the Captain and Governor, or Deputy-Governor of the said Isle for the time being, for the furtherance of the government and benefit of the said Isle, as oft as you shall be called upon or required thereunto.*

4. You shall reverently obey your Ordinary for the time present, by Divine Providence Lord Bishop of this Isle, and his successors, in all honest and lawful things, following with a glad mind and will their godly admonitions, and submitting yourself to their godly judgments.

5. You shall faithfully and diligently discharge the duty of your place in all things, according to the ancient laws, accustomary course, and proceeding of your court.

So help you God, and by the contents of this Book.

The Oath administered to the Official of the Archdeacon's Courts is the same as the 1st, 2nd, 3rd, and 5th (the 4th omitted). In the 3rd, after office and place, is said, as Official.

PART OF THE OATH ADMINISTERED TO THE RECEIVER-GENERAL, viz.

You shall be aiding and assisting with your best advice and counsel at all times hereafter to the Lieutenant-Captain, and the rest of the Lord's Council here for the time being, so often as is needful, and so often as you are called upon by them, or any of them, for the furtherance of the government and benefit of this Isle and houses, and the preservation and safe keeping of the same.

There is the same clause in the Oath of the Comptroller and Clerk of the Rolls.

THE OATH ADMINISTERED TO THE GOVERNOR OF THE ISLE.

Your allegiance to the King's Majesty of Great Britain reserved ;

You shall swear to be true, and true faith and fidelity bear to the Right Honourable —— Earl Derby, and to his heirs. You shall not reveal the secrets of this Isle, nor houses, nor garrisons therein, to any foreigner or stranger.

You shall truly and uprightly deal between the Lord and his people, and as indifferently betwixt party and party as this staff now standeth, as far as in you lieth.

You shall take the advice and consent of the rest of the Lord's Council of the said Isle, or so many of them as shall be present within the Isle, in all matters that concern the state and government of the said Isle and houses.

These, and all other things appertaining to the Governor of this Isle, his office and place, you shall, according to the

purport and extent of your commission, and the laws of the said Isle, do and perform so far as in you lieth.

So God you help, &c.

N.B.—The Bishop was present at the first Court or Tynwald that is mentioned in the Statute-book, and which was held upon the hill of Reneurling, before our doubtful Lord, Sir John Stanley, King of Man and the Isles, on the Tuesday next after the Feast of St. Bartholomew, in the year 1422.

Richard Bishop of Sodor and Man, and Nicholas Thompson and Hugh Cannell, his Vicars-General, subscribe several laws, for different purposes, along with the Governor, as members of his Council, at a Tynwald Court holden 24th June, 1637.

The Officers, Spiritual and Temporal, and twenty-four Keys, were convened by the Right Honourable James Earl of Derby, at Peeltown, 18th July, 1643, to advise and consider of certain grievances of the Church and Commons of the Isle, &c.

Richard Sodor and Man, and Hugh Cannell, Vicar-General, subscribe laws enacted *anno* 1643.

Hugh Cannell, Vicar-General, subscribes, as a member of the Council, laws passed for various purposes, *annis* 1647, 1661, and 1662.

Isaac Sodor and Man, and the said Hugh Cannell, subscribe the laws passed *annis* 1664, 1665, and 1667.

Thomas Sodor and Man, the Archdeacon, and Vicars-General, subscribe the Ecclesiastical Constitutions, *anno* 1703.

Thomas Sodor and Man subscribes the Act of Settlement, &c., *annis* 1703 and 1704.

Thomas Sodor and Man subscribes the laws passed *annis* 1711, 1712, 1713, 1726, and 1733.

Thomas Sodor and Man, and his Archdeacon (Kippax) subscribe a law *anno* 1734.

Thomas Sodor and Man, and his Archdeacon subscribe the laws passed *anno* 1738.

Thomas Sodor and Man, his Archdeacon (Kippax), and John Cosnahan, Vicar-General, subscribe laws passed *annis* 1739, 1741.

The said Archdeacon and Vicar-General Moore subscribe a law passed 1742.

Mark Sodor and Man, and his Archdeacon (Mylrea), and Vicars-General Robert Radcliffe, Matthias Curghey, James Wilks, and John Moore, subscribe various subsequent laws, during his Episcopate, until the year 1765.

Vide Statute-book, wherein there are various other instances of the Bishop, Archdeacon, Vicars-General, and Archdeacon's Official, acting as members of the Council.



No. 11.

THE OATH ADMINISTERED TO THE TWENTY-FOUR KEYS BEFORE THE REVESTMENT.

The Oath administered to the Twenty-four Keyes of this Isle.

 YOUR allegiance to the King's Majesty of England reserved ;

You shall true faith and fidelity bear to his Grace James Duke of Atholl, Lord of this Isle, and his heyr, during your life.

You shall be aiding and assisting to the Deemsters in all doubtful matters ; the Lord's council, your fellows', and your own, you shall not reveal ; you shall use your best endeavours to maintain the ancient laws and customes of this Isle.

You shall justly and truely deliver your opinion, and do right in all matters which shall be put unto you, without favour or affection, affinity or consanguinity, love or fear, reward or gain, or for any hope thereof ; but in all things you shall deal uprightly and justly, and do wrong to no man.

So God you help, and the contents of that Book.

THE OATH ADMINISTERED TO THE MEMBERS OF THE HOUSE OF KEYS SINCE THE REVESTMENT.

The Oath administered to the Members of the House of Keys.

You shall be aiding and assisting to the Deemster of this Isle in all doubtful matters ; his Majesty's council, your

fellows', and your own, you shall not reveal ; you shall use your best endeavours to maintain the ancient laws and customs of this Isle.

You shall justly and truly deliver your opinion, and do right in all matters which shall be put unto you, without favour or affection, affinity or consanguinity, love or fear, reward or gain, or for any hope thereof ; but in all things you shall deal uprightly and justly, and do wrong to no man.

So help you God, and by the contents of this Book.



No. 12.

THE BISHOP'S OATH OF OFFICE BEFORE THE REVESTMENT.

The Oath administered to the Bishop of this Isle.

MEY allegiance to the King's Majesty of Great Britain,
and my former oaths (according to the laws there)
reserved;

I swear to be true to his Grace James Duke of Atholl,
and to his heirs; and will perform all such dutys unto them
as belongs to my place being Bishop here.

And to my power shall maintain and defend the ancient
laws, statutes, and customes, proper and belonging to this
Isle, and prerogatives due to the heyres thereof.

And with my best advise and counsell be aiding to the
Captain of this Isle, or Governour for the time being, for
furtherance of the government and benefitt of the said Isle.

So God me help, and by the contents of this Book.

Examined by
JOHN QUAYLE, C.R.



NO. 13.

THE BISHOP'S OATH OF OFFICE SINCE THE REVESTMENT.

*The Oath administered to the Right Rev^d Father in God,
Claudius, Lord Bishop of Sodor and Mann.*

MY former oaths according to the laws of Great Britain reserved; I do swear, that I shall to my power maintain and defend the ancient laws, statutes, and customs, proper and belonging to this Isle, and the prerogatives due to our Sovereign Lord the King and his successors; and shall perform all such duties as belong to my place being Bishop there, and with my best advice and council be aiding to the Governor and Lieutenant-Governor for the time being, for the furtherance of the government, and benefit of the said Isle.

So help me God, and by the contents of this Book.

Examined by
JOHN QUAYLE, C.R.



No. 14.

**THE OATH ADMINISTERED TO THE ARCHDEACON BEFORE
THE REVESTMENT.**

The Oath administered to the Archdeacon of the Isle of Mann.

MY allegiance to the King's Majesty of Great Britaine reserved ; and my former oaths according to the laws there also reserved ;

I swear to be true to his Grace James Duke of Atholl, Lord of this Isle, and to his heyres ; and that I will perform all such dutys unto him and them as belong unto my place being Archdeacon here.

And to my power shall and will maintain and defend the ancient laws, statutes, and customes, proper and belonging to this Isle, and the prerogatives due to the heirs thereof.

And with my best advise and counsell be aiding and assisting to the Captaine of this Isle, or Governor for the time being, for furtherance of the government and benefit of the said Isle.

So God me help, and the contents of this Book.

Examined by
JOHN QUAYLE, C.R.

No. 15.

THE OATH ADMINISTERED TO THE ARCHDEACON SINCE THE REVESTMENT.

The Oath administered to the Archdeacons.

I DO swear, that I will perform all such duties as may belong to my place of Archdeacon of this Isle; and to my power shall and will defend the ancient laws, statutes, and customs, proper and belonging to this Isle, and the prerogatives thereof; and with my best advice and council be aiding and assisting to his Majesty's Governor-in-Chief, or his Lieutenant-Governor of this Isle, for the time being, for the furtherance of the government and benefit of the said Isle.

So God me help, and by the contents of this Book.

Examined by
JOHN QUAYLE, C.R.



No. 16.

THE OATH ADMINISTERED TO THE ARCHDEACON'S OFFICIAL BEFORE THE REVESTMENT.

The Oath administered to the Official of the Archdeacon's Court.

TOUR allegiance to the King's Majesty of Great Britain reserved;

You shall swear to be true, and true faith and fidelity to bear unto his Grace James Duke of Atholl, Lord of this Isle, and his heirs, during your life.

You shall to your power maintain and defend the ancient laws, statutes, and customs, proper and belonging to this Isle, and the prerogatives due to the heirs thereof, as appertaineth to your office and place as Official, according to the trust in you reposed; and with your best advice and counsell, be aiding and assisting to the Captain and Governor, or Deputy-Governor of the said Isle, for the time being, for the furtherance of the government, and benefit of the said Isle, as oft as you shall be called upon or required thereunto.

You shall faithfully and diligently discharge the duty of your place in all things according to the ancient laws, accus-tomary course, and proceeding of your court under the Arch-deacon.

So God you help, and the contents of this Book.

Examined by
JOHN QUAYLE, C.R.

No. 17.

THE OATH ADMINISTERED TO THE OFFICIALS SINCE THE REVESTMENT.

The Oath administered to the Official.

BY YOU shall to your power maintain and defend the ancient laws, statutes, and customs, proper and belonging to this Isle, as appertaineth to your office and place as Official, according to the trust in you reposed; and with your best advice and counsel be aiding and assisting to his Excellency the Governor-in-Chief and Captain-General of this Isle, or the Lieutenant-Governor or Deputy for the time being, for the furtherance of the government and benefit of the said Isle, as oft as you shall be called upon or required thereunto.

You shall faithfully and diligently discharge the duty of your place in all things, according to the ancient laws, accus-tomary course, and proceeding of your court under the Archdeacon.

So God you help, and by the contents of that Book.

Examined by
JOHN QUAYLE, C.R.



No. 18.

THE OATH ADMINISTERED TO THE VICARS-GENERAL
BEFORE THE REVESTMENT.

The Oath administered to the Vicars-General of this Isle.

OUR allegiance to the King's Majesty of Great Britain
reserved;

You shall swear to be true, and true faith and fidelity to bear to his Grace James Duke of Atholl, and his heirs, during your life.

You shall to your power maintain and defend the ancient laws, statutes, and customs, proper and belonging to this Isle, and the prerogatives due to the heirs thereof, as appertaineth to your office and place according to the trust reposed in you; and with your best advice and counsel be aiding and assisting to the Captain and Governor or Deputy-Governor of the said Isle for the time being, for the furtherance of the government and benefit of the said Isle, as oft as you shall be called upon or required thereunto.

You shall reverently obey the Ordinary for the time present, *Thomas*, by divine Providence Lord Bishop of this Isle, and his successors, in all honest and lawful things, following with a glad mind and will their godly admonitions, and submitting yourself to their godly judgments.

You shall faithfully and diligently discharge the duty of your place in all things according to the ancient laws, accus-tomary course, and proceeding of your court.

So God you help, and by the contents of that Book.

Examined by

JOHN QUAYLE, C.R.

No. 19.

**THE OATH ADMINISTERED TO THE VICARS-GENERAL
SINCE THE REVESTMENT.**

The Oath administered to the Vicars-General of this Isle.

YOU shall to your power maintain and defend the ancient laws, statutes, and customs proper and belonging to this Isle, and shall faithfully and diligently discharge the office and duty of Vicar-General of this Isle, in all things according to the ancient laws and the accustomed course and proceeding of your court.

You shall with your best advice and counsel be aiding and assisting to his Excellency the Governor-in-Chief and Captain-General of this Isle, or the Lieutenant-Governor or Deputy of the said Isle, for the time being, for the furtherance of the government and the benefit of the said Isle, as oft as you shall be called upon or required thereunto.

So God you help, and by the contents of that Book.

Examined by
JOHN QUAYLE, C.R.



No. 20.

THE OATH ADMINISTERED TO THE ATTORNEY-GENERAL
BEFORE THE REVESTMENT.

The Oath administered to the Attorneys-General of this Isle.

OUR allegiance to the King's Majesty of Great Britain
reserved;

You shall swear to be true, and true faith to bear to his Grace James Duke of Atholl, Lord of this Isle, and his heirs, during your life.

You shall not reveal the secrets of this Isle or houses to any foreigner or stranger.

You shall not commit, nor see any voluntary or wilful waste committed by any manner of person, but you shall reveal or amend the same as it lieth in your power.

You shall faithfully, justly, and truly, without favour or affection, dread or fear, envy or malice, and without respect of love or gain, kindred or friendship, consanguinity or affinity, plead and defend the said Lord his causes, in all and every thing and things whatsoever, which by the laws of this Isle are or shall grow due to the said Lord, by his right or interest here.

You shall see to and provide, in as much as in you lyeth or belongeth, that all forfeitures, fines, amercements, aliens' goods, felons' goods, wayfes, strays, wrecks at sea, flood-gates, and such like, be truly estreated and paid to the said Lord, or otherwise disposed of to his Grace's use.

You shall, from time to time, at every court, plead and defend the cause of all widows, orphans, and fatherless children, and not refuse any.

You shall be aiding and assisting with your best advice and counsel to the Lieutenant-Captain and the rest of the Council here for the time being, so oft as is needful, or so often as you shall be called upon by them, or any of them, for the furtherance of the government here, and benefit of this Isle and houses, and preservation and safe keeping of the same.

These, and all other thing or things whatsoever, which shall or may in anywise concern you in your place of the Lord's Attorney, you shall truly and faithfully do and perform to the best of your skill.

So help you God.

Examined by
JOHN QUAYLE, C.R.

THE OATH ADMINISTERED TO THE ATTORNEY-GENERAL
SINCE THE REVESTMENT.

The Oath to be administered to the Attorneys-General of this Isle.

I WILL faithfully, justly, and truly, without favour or affection, dread or fear, envy or malice, and without respect to love or gain, kindred or friendship, consanguinity or affinity, plead and defend the causes of our Sovereign Lord the King, in all and every thing and things whatsoever, as by law required.

I will also, from time to time, when thereunto required by the Governor-in-Chief, or, in his absence, by the Lieutenant-Governor of this Isle for the time being, plead and defend the cause of all widows, orphans, and fatherless children.

I will, from time to time, be aiding and assisting, with my best advice and counsel, to the said Governor-in-Chief and Captain-General, or, in his absence, to the Lieutenant-Governor, so often as is needful, or I shall be called upon, for the furtherance of the government, and benefit and preservation of this Isle.

These, and all other thing and things whatsoever, which shall or may in anywise concern my said office of his Majesty's Attorney-General of this Isle, I will truly and faithfully do and perform to the best of my skill.

So help me God.

Examined by
JOHN QUAYLE, C.R.



No. 21.

**THE OATH ADMINISTERED TO THE COMPTROLLER AND
CLERK OF THE ROLLS BEFORE THE REVESTMENT.**

*The Oath administered to the Comptroller of this Isle, and
to the Clerk of the Rolls.*

SWEAR allegiance to the King's Majesty of Great Britain
reserved;

You shall be true, and true faith and fidelity bear to his Grace James Duke of Atholl, Lord of this Isle, and his heirs, during your life.

You shall not reveal the secrets of this Isle, nor houses or garrisons therein, to any foreigners or strangers.

You shall not commit, or see any voluntary or wilful waste committed by any manner of person, but you shall reveal or amend the same as it lieth in your power.

You shall deal duly and truly, from time to time, so long as you shall, according to the trust reposed in you, execute the office of Comptroller and Clerk of the Rolls; take accounts as well of all receipts of money to be levied for the Lord within the charge of the Receiver and Water-Bailiff, together with the disbursements due to be paid, and shall see the same employed to his Lordship's best advantage to your knowledge.

You shall deal uprightly and truly between the said Lord and his tenants, for and concerning all matters wherein you have to deal with the said tenants for the Lord, or otherwise, without sparing the rich, or oppressing the poor, or without any other unlawful exaction, other than such as is necessary for the use of the Lord, and safe keeping of the said Isle and houses.

You shall make true and just account of all the receipts of money and customs received and had by the Receiver and Water-Bailiff; as also of all payments, allowances, and disbursements out of the same, as far as it behoveth you, and as it standeth with your charge and office, as often as you shall be called upon by the Lord, his officer or officers authorised to call upon you for the making of the said accounts.

You shall be aiding and assisting with your best advice and counsel to the Lieutenant-Captain, and the rest of the Council here for the time being, so often as is needful, or so often as you are called upon by them, or any of them, for the futherance of the government, and safe keeping of the same Isle and houses.

You shall generally, to your knowledge, do and execute all and every other matter and things belonging to the due execution of the said office, and not hereinbefore expressed in general words, to and for the best use of the Lord and the said Isle, without oppression or concealment as aforesaid.

So help you God.

Examined by
JOHN QUAYLE, C.R.



No. 22.

THE OATH ADMINISTERED TO THE CLERK OF THE ROLLS
SINCE THE REVESTMENT.

JOHN QUAYLE do swear, that I will duly and truly execute the office of his Majesty's Clerk of the Rolls within this Isle, according to the trust in me reposed.

I will, from time to time, be aiding and assisting with my best advice and counsel to the Governor-in-Chief and Captain-General, so often as is needful, or I shall be called upon by him, for the furtherance of the government and the benefit and preservation of this Isle. I will generally, to my knowledge, do and execute all and every other matters and things belonging to the due execution of the said office, and not hereinbefore expressed in general words, to and for the best use of his Majesty, our Sovereign Lord the King, and his subjects within the said Isle, without favour or oppression.

So help me God.

Examined by
JOHN QUAYLE, C.R.

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No. 23.

THE OATH ADMINISTERED TO THE RECEIVER-GENERAL
BEFORE THE REVESTMENT.

The Oath administered to the Receivers-General of this Isle.

 OUR allegiance to the King's Majesty of Great Britain
 reserved;

You shall be true, and true faith and fidelity to bear to his Grace James Duke of Atholl, Lord of this Isle, and his heirs, during your life.

You shall not reveal the secrets of this Isle, nor houses or garrisons therein, to any foreigner or stranger.

You shall not commit, nor see any voluntary or wilful waste, but you shall reveal or amend the same, as it lieth in your power.

You shall deal duly and truly as well in the receipts of money to be levied for the Lord's use within your charge of the office of Receiver, as all such customes and other commoditys due to be paid to the said Lord, and shall employ the same to the Lord his best profit to your knowledge.

You shall deal uprightly, truly, and indifferently, betwixt the said Lord and his tenants, for and concerning the said receipts of the said money and customes, or any other matter wherein you have to deal with the said tenants for the said Lord or otherwise, without sparing the rich or oppressing the poor, or without any other unlawful exactions, other than such as is necessary for the use of the Lord, and the safe keeping of the said Isle and houses.

You shall make due and true accompts, as well of all your receipts of money and customes aforesaid, as also of all payments wherein you stand charged by virtue of the said office, or wherewith you may not be charged otherwise than upon your own conscience, as need require you to be called by the Lord, or his officers authorised to call upon you for the making of the said accompts.

You shall be aiding and assisting with your best advice and counsel (at all times hereafter) to the Lieutenant-Captain, and the rest of the Lord's Council here for the time being, so often as is needful, and so often as you are called upon by them or any of them, for the furtherance of the government, and benefit of this Isle and houses, and the preservation and safe keeping of the same.

You shall generally, to your knowledge, do and execute all and every other matters and things belonging to the due execution of the said office (and not hereinbefore expressed by special words), to and for the best use of the said Lord and Isle, without oppressing or concealment as aforesaid.

So help you God, and by the contents of this Book.

Examined by
JOHN QUAYLE, C.R.



No. 24.

THE OATH ADMINISTERED TO THE RECEIVER-GENERAL
AND COLLECTOR SINCE THE REVESTMENT.

*The Oath administered to the Receiver-General and Collector
of the Isle of Man.*

YOU shall well and truly execute the office of Receiver-General and Collector of his Majesty's revenues within this Isle, and deal duly and faithfully in the receipts of money to be levied for his Majesty's use within your said charge, in all matters relative to the execution of the said office, according to such directions as you shall from time to time receive from his Majesty, or from the Commissioners of his Majesty's Treasury for the time being.

You shall generally, to your knowledge, do and execute all and every other matters and things belonging to the due execution of the said office, and not hereinbefore expressed by special words, to and for the best use of his Majesty.

So help you God.

Examined by
JOHN QUAYLE, C.R.



No. 25.

THE OATH ADMINISTERED TO THE DEEMSTERS BEFORE
THE REVESTMENT.

The Oath administered to the Deemsters of this Isle.

BEY this Book, and by the holy contents thereof, and by the wonderful works that God hath miraculously wrought in heaven above and in the earth beneath in six days and seven nights (your allegiance to the King's Majesty of Great Britain reserved), you shall bear true faith and fidelity to his Grace James Duke of Atholl and his heirs, in whom is the title of inheritance of this Isle and houses thereof.

You shall without respect of favour or friendship, love or gain, consanguinity or affinity, envy or malice, execute the laws of this Isle justly betwixt the Lord and his people of this land, and betwixt party and party, so indifferently as the herring back-bone doth lie in the midst of the fish.

So God you help, and by the contents of this Book.

Examined by
JOHN QUAYLE, C.R.



No. 26.

THE OATH ADMINISTERED TO THE DEEMSTER SINCE THE
REVESTMENT.

BY this Book, and by the holy contents thereof, and by the wonderful works that God hath miraculously wrought in heaven above and in the earth beneath in six days and seven nights, I, Daniel Lace, do swear, that I will, without respect of favour or friendship, love or gain, consanguinity or affinity, envy or malice, execute the laws of this Isle justly betwixt our Sovereign Lord the King and his subjects within this Isle, and betwixt party and party, as indifferently as the herring back-bone doth lie in the midst of the fish.

So help me God, and by the contents of this Book.

Examined by
JOHN QUAYLE, C.R.



No. 27.

THE OATH ADMINISTERED TO THE WATER-BAILIFF
BEFORE THE REVESTMENT.

The Oath administered to the Water-Bailiffs of this Isle.

 OUR allegiance to the King's Majesty of Great Brittaine reserved;

You shall true faith and fidelity bear to his Grace James Duke of Atholl, Lord of this Isle, and his heirs, during your life.

You shall not commit, nor see any voluntary or wilful waste committed by any manner of person, but you shall reveal or amend the same as it lyeth in your power.

You and your deputys, as far as in you lyeth, shall execute the office of Water-Bailiff and Customer duly and truly, according to the trust reposed in you, during such time as you shall execute the same office.

You and your deputys, as far as in you lyeth, shall duly and truly receive and take for the said Lord's use such custome of all men, for ingates and outgates and other customes, as is limited by the book of rates or otherwise, as upon your discretion ratably you shall receive and take the custome of all comoditys to be transported or brought in, not mentioned in the said book of rates.

You and your deputys, as far as in you lyeth, shall make true and just accompt unto the said Lord, or his officers, of all such receipts as you shall receive, or ought to receive, for and in the name and behalf of the said Lord, from time to time, and as often as you shall be called upon, to the most

profit, best use and advantage of the said Lord, any use, custome, or other matter to the contrary notwithstanding.

You shall not give your consent for the transportation of any prohibited wares, forbidden to be transported by the said Lord or his Lieutenant-Captain and Counsell.

You and your deputys, as far as in you lyeth, shall not conceale any wrecks, or any other commoditys due, or which ought to be due, to the said Lord, appertaining or belonging to the said office of Water-Bailiff or Customer.

You and your deputys, generally as far as in you lyeth, shall do and execute all other matters and things belonging to the said office of Water-Bailiff and Customer not hereinbefore mentioned, and all and every other matters and things whatsoever whereunto you shall be called, or otherwise shall come unto, or do and execute of your own accord, for the execution of justice and equity in the said office, or any other cause to the Lord's most advantage, not favouring the rich or oppressing the poor, and all this according to the purport and extent of your commission.

So help you God.

Examined by
JOHN QUAYLE, C.R.



No. 28.

THE OATH ADMINISTERED TO THE WATER-BAILIFF
SINCE THE REVESTMENT.

SYOU shall, as far as in you lyeth, execute the office of Water-Bailiff duly and truly, according to the trust reposed in you, during the time you shall execute the same office.

You generally, as far as in you lyeth, shall do and execute all matters and things belonging to the said office of Water-Bailiff, for the execution of justice and equity in the said office, not favouring the rich or oppressing the poor, and all this according to the purport and extent of your commission.

So help you God.

Examined by
JOHN QUAYLE, C.R.



No. 29.

GEORGE SAVAGE, do swear, that I shall duly and truly execute the office of his Majesty's Judge of the Court of Admiralty within this Isle, according to the trust reposed in me.

I will, from time to time, be aiding and assisting with my best advice and councill to the Governor-in-Chief and Captain-General, so often as needful, or so often as I shall be called upon by him, for the furtherance of the government and the benefit and preservation of this Isle.

I will generally to my knowledge do and execute all and every other matters and things belonging to the due execution of the said office, and not hereinbefore expressed in general words, to and for the best use of our Sovereign Lord the King, and his subjects within this Isle, without favcur or oppression. As witness his the said George Savage's subscription.

So help me God.

GEO. SAVAGE.

At Castle Rushen, the 25th day of March, 1789.

The before written Oath appointed to be taken by the Water-Bailiff of this Isle, was administered to George Savage, Esquire, sworn Water-Bailiff, by virtue of a constitution from the Right Honourable the Lords Commissioners of his Majesty's Treasury, dated the 5th day of February, 1789; as witness his subscription,

GEO. SAVAGE.

Sworn before me,

(Signed) R. DAWSON.

No. 30.

G O V E R N O R .

(In the DUKE OF ATHOLL's Letter of the 3d February, 1792.)

Liber Irrotulamentor. 1702, &c.

THE Most Noble John, Duke of Atholl, and Charlotte, Duchess of Atholl, Baroness Strange, Lady of Mann and the Isles, &c. To all to whom these presents shall come or may concern : Know ye, That we the said Duke and Duchess, reposing trust and confidence in the care, conduct, and fidelity of John Wood, Esquire, have, therefore, nominated, constituted, authorized, and appointed, and by these presents do nominate, constitute, authorize, and appoint him, the said John Wood, to be Governor and Commander-in-Chief of our said Isle of Mann ; giving, and hereby granting unto him full power and authority to perform and execute the said post and office of Governor and Commander-in-Chief of our said Isle, in all matters and things thereunto belonging, as well civil as military, according to the ancient laws, statutes, customes, and constitutions of our said Isle, and the tenor of the oath usually administered in that behalf ; willing and requiring all inferior officers, both civil and military, to be aiding, assisting, and obedient to all his lawful commands, for the good government, safety, and preservation of the said Isle, and the people thereof, according to their respective offices and duties ; he our said Governor to take and receive out of our Treasury there, the yearly salary of two hundred pounds, and this to continue during our good will and pleasure.

Given under our hands and seals, at London, the 18th
December, 1764.

(L. s.) ATHOLL.

(L. s.) C. ATHOLL and STRANGE.

January 31, 1765.

A true copy of the original commission,
inrolled and recorded by JOHN QUAYLE,
Compt. C. Rolls.

Examined by
JOHN QUAYLE, C.R.



No. 31.

D E E M S T E R .

(In the DUKE OF ATHOLL's Letter of the 3d February, 1792.)

Liber Irrotulamentor. 1702, &c.

ATHE Most Noble John, Duke of Atholl, and Charlotte, Duchess of Atholl, Baroness Strange, Lady of Mann and the Isles, &c. To all to whom these presents shall come or may concern: Know ye, That we the said Duke and Duchess, reposing trust and confidence in the fidelity and integrity of Peter John Heywood, Gentleman, have made, constituted, impowered, and appointed, and by these presents do make, constitute, impower, and appoint him the said Peter John Heywood, to be one of the Deemsters of our said Isle; giving and hereby granting unto him the said Peter John Heywood, full power and authority, in every respect, to execute and discharge the said office and post of Deemster, according to the ancient and known laws of our said Isle, and the tenor of the oath usually administered in that behalf; and to take and receive the accustomed yearly salary, with all fees and perquisites to the said office due and of right belonging. For all which this shall be his commission, to continue during our good will and pleasure. Given under our hand and seals, at London, the 18th December, 1764.

(L. s.) ATHOLL.

(r. s.) C. ATHOLL and STRANGE.

Feb. 8th, 1765.

A true copy of the original commission,
inrolled and recorded by JOHN QUAYLE,
Compt. C. Rolls.

Examined by
JOHN QUAYLE, C.R.

No. 32.

D E E M S T E R S .

(In the DUKE OF ATHOLL'S Letter of the 8d February, 1792.)

Liber Irrotulamentor. 1702, &c.

THE Most Noble John, Duke of Atholl, and Charlotte,
Duchess of Atholl, Baroness Strange, Lady of Mann
and the Isles, &c. To all to whom these presents
shall come or may concern: Know ye, That we the said Duke
and Duchess, reposing trust and confidence in the fidelity and
integrity of Daniel Lace, Gentleman, have made, constituted,
empowered, and appointed, and by these presents do make,
constitute, empower, and appoint him the said Daniel Lace, to
be one of the Deemsters of our said Isle; giving and hereby
granting unto him the said Daniel Lace, full power and
authority, in every respect, to execute and discharge the said
office and post of Deemster, according to the ancient and
known laws of our said Isle, and the tenor of the oath usually
administered in that behalf; and to take and receive the
accustomed yearly salary, with all fees and perquisites to the
said office due and of right belonging. For all which this
shall be his commission, to continue during our good will and
pleasure. Given under our hands and seals, at London, the
18th December, 1764.

(L. s.) ATHOLL.

(L. s.) C. ATHOLL and STRANGE.

Feb. 8th, 1765.

A true copy of the original commission,
inrolled and recorded by JOHN QUAYLE,
Compt. C. Rolls.

Examined by
JOHN QUAYLE, C.R.

No. 33.

ATTORNEY-GENERAL.

(In the DUKE OF ATHOLL's Letter of the 3d February, 1792.)

Liber Irrotulamentor. 1702.

 THE Most Noble John, Duke of Atholl, and Charlotte, Duchess of Atholl, Baroness Strange, Lady of Mann and the Isles, &c. To all to whom these presents shall come: Know ye, That we the said Duke and Duchess have made, constituted, authorized, and appointed, and by these presents do make, constitute, authorize, and appoint John Quillin, to be our Attorney-General in our said Isle; to hold and execute the said office of Attorney-General according to the laws and customs of our said Isle, and the tenor of the oath usually administered in that behalf; and to have, receive, and take the usual yearly salary, and all and singular the fees, perquisites, and emoluments unto the said office belonging, and of right appertaining. For doing of all which this shall be his commission, to continue during our good will and pleasure. Given under our hands and seals, at London, the 18th December, 1764.

(L. s.) ATHOLL.

(L.s.) C. ATHOLL and STRANGE.

Feb. 8th, 1765.

A true copy of the original commission,
inrolled and recorded by JOHN QUAYLE,
Compt. C. Rolls.

Examined by
JOHN, QUAYLE, C.R,

No. 34.

RECEIVER-GENERAL.

(In the DUKE OF ATHOLL's Letter of the 3d February, 1792.)

Liber Irrotulamentor. 1702, &c.

THE Most Noble John, Duke of Atholl, and Charlotte,
Duchess of Atholl, Baroness Strange, Lady of Mann
and the Isles, &c. To all to whom these presents
shall come or may concern: Know ye, That we the said Duke
and Duchess have made, ordained, constituted, authorized, and
appointed, and by these presents do make, ordain, constitute,
authorize, and appoint Daniel Mylrea, to be Receiver-General
of our revenue within our said Isle; to demand, receive, and
take for our use, all rents, casualties, and other profits and
emoluments whatsoever, wherewith he shall from time to time
be charged, as the same shall grow, arise, and become due to
us in any wise, from the several Moars and other persons who
shall be concerned or employed in receiving our rents, or other
particulars aforesaid. And we the said Duke and Duchess do
hereby further empower the said Daniel Mylrea, to pay, satisfy,
and discharge, out of our said revenue, all salaries, fees,
stipends, pensions, and other payments, as he shall from time
to time have orders and directions to do, giving yearly and
every year, or oftener if required, a true and perfect account,
in writing, of all receipts and payments unto us, or unto our
Governor and officers, or unto such other person or persons as
we shall appoint to examine and audit the same; willing and
requiring him faithfully to execute the said office in all things
according to the laws and customs of the said Isle, and the
tenor of the oath usually administered in that behalf; and to

receive the yearly salary and perquisites to the said office belonging. For all which this shall be his commission, to continue during our good will and pleasure. Given under our hands and seals, at London, the 18th December, 1764.

(L. s.) ATHOLL.

(L. s.) C. ATHOLL and STRANGE.

Feb. 8th, 1765.

A true copy of the original commission,
inrolled and recorded by me, JOHN
QUAYLE, Compt.

Examined by
JOHN QUAYLE, C.R.



No. 36.

WATER-BAILIFFS AND COLLECTORS.

(In the DUKE OF ATHOLL's Letter of 3d Feb., 1792.)

Liber Irrotulamentor. 1702, &c.

THE Most Noble John, Duke of Atholl, and Charlotte,
Duchess of Atholl, Baroness Strange, Lady of Mann
and the Isles, &c. To all to whom these presents
shall come: Know ye, That we the said Duke and Duchess,
reposing trust and confidence in the fidelity and integrity of
Daniel Mylrea and John Quayle, have made, ordained, con-
stituted, authorized, and appointed, and by these presents do
make, ordain, constitute, authorize, and appoint them the said
Daniel Mylrea and John Quayle jointly, or either of them
severally, to be Water-Bailiffs and Collectors of the customs
and duty of and within our said Island; giving and hereby
granting unto them jointly, or either of them severally, full
power and authority to perform, execute, and discharge the
said post and office of Water-Bailiff and Collector, and do, or
cause to be done, all duties and services thereunto belonging,
according to the laws and customs of the said Isle, and to the
tenor of the oath usually administered in that behalf; and to
have, receive, and take the accustomed yearly salary, together
with all fees, perquisites, and profits, due and of right apper-
taining to the said office; and we the said Duke and Duchess
do also further require them to observe such orders and
directions as they shall from time to time receive from us, or
from the Governor of the said Isle for the time being: for all
which this shall be their warrant and commission, to continue

during our good will and pleasure. Given under our hands
and seals, at London, the 18th of December, 1764.

(L. s.) ATHOLL.

(L. s.) C. ATHOLL and STRANGE.

February 8th, 1765.

A true copy of the original commission,
inrolled and recorded by JOHN QUAYLE,
Compt. and C. Rolls.

Examined by
JOHN QUAYLE, C.R.



No. 37.

MAJOR-GENERAL.

(In the DUKE OF ATHOLL's Letter of 3d Feb., 1792.)

Liber Irrotulamentor. 1702, &c.

THE Most Noble John, Duke of Atholl, and Charlotte,
Duchess of Atholl, Baroness Strange, Lady of Mann
and the Isles, &c. To all to whom these presents
shall come: Know ye, That we the said Duke and Duchess,
reposing trust and confidence in the courage, conduct, ability,
and integrity of Humphrey Harrison, Esquire, to do us good
and faithful service, have nominated, constituted, authorized,
and appointed, and by these presents do nominate, constitute,
authorize, and appoint him, the said Humphrey Harrison, to
be Major-General of all the companies and forces within our
said Isle; giving and hereby granting unto him full power
and authority to call out the said companies, to such place
and places as he shall think most convenient, and to instruct
and exercise them according to the rules, orders, and discipline
of war, and according to such orders and instructions as he
shall from time to time receive from us, the said Duke and
Duchess, or from the Governor of our said Isle for the time
being; willing and requiring all the said companies, and all
inferior officer or officers of the same, to be aiding, assisting,
and obedient to all his lawful commands for the safety and
preservation of the said Isle and the inhabitants thereof upon
all occasions; and we, the said Duke and Duchess, do also
hereby further constitute, authorize, and appoint him, the said
Humphrey Harrison, to be constable of our garrison of Peel
Castle, and Captain of the town-company thereunto belonging;

to have and to hold unto him, the said Humphrey Harrison, the respective posts and places aforesaid, which he is to execute and perform in all things according to his duty, to the laws and customs of this Isle, and to the tenor of the oaths usually administered in that behalf; and to receive the accustomed yearly salary and perquisites of Constable of Peel, which salary is to be twenty pounds per annum; and all this to continue during our good will and pleasure. Given at London, the 18th of December, 1764.

(L.s.) ATHOLL.

(L.s.) C. ATHOLL and STRANGE.

February 8, 1765.

A true copy of the original commission,
inrolled and recorded by JOHN QUAYLE,
Compt. and C. Rolls.

Examined by
JOHN QUAYLE, C.R.



No. 38.

THE LEGISLATURE OF THE ISLE OF MAN.

I. The KING.

II. The GOVERNOR.

III. The COUNCIL :
Consisting of

- | | |
|-------------------------------------|--|
| III. The COUNCIL :
Consisting of | <p>1. The Bishop.
2 <i>and</i> 3. Vicars-General.
4. Receiver-General.
5. Attorney-General.
6. Water-Bailiff.
7. Clerk of the Rolls.</p> |
|-------------------------------------|--|

The consent of two or more of these is necessary to the passing of all laws, &c., but no determinate number of them is required, nor is a majority necessary, nor have they any controul over the Governor.

IV. The Two DEEMSTERS, or Judges of the Common Law.

They are not of the Standing Council, except when called upon by the Governor, which they always are, and sit with him in the Chancery Court, where the Governor presides, as well in the Court of Common Law and General Delivery, where they preside themselves. Their consent is necessary to the passing of Acts of Tynwald, being a distinct branch of the Legislature.

V. The Twenty-four KEYS.—The consent of a majority of them is necessary also to the passing of laws. The  Chairman (who has lately called himself *Speaker*) has a casting vote; they are also Jurors, and try and determine all matters of title upon ejectment coming before them from inferior Juries.

Note.—The form of passing Acts of Tynwald prior to the year 1765 was as follows: An Act, whether

it originated among the Keys, from the recommendation of any of the inhabitants, or from one of the members of that body, was (if approved of by them) recommended by the Chairman to the Governor, and by him communicated to the rest of the Council at one of the courts where he presides ; and upon the first court day (where the members attended *ex officio*), such Act underwent their discussion ; and if the same appeared to relate to, or anywise affect spiritual matters, the Governor generally desired the Bishop and his Vicars-General to attend. If the Act was approved of in general, the Clerk of the Rolls was directed to draw it up in form ; after which it was signed by the Governor, and as many of the Council as thought proper : it was then sent to the Keys, and having been there put to the vote, if carried by a majority, it was signed by such majority, and afterwards presented by the Chairman to the Governor ; or, if not, it was so reported by the Chairman. The Act so approved of, and signed by the Governor, Council, Deemsters, and Keys, was then transmitted to the Lord of the Isle, who signified his assent to the same, under his *sign manual*, as follows :—“*Dunkeld, June 5th, 1738.*
“I do allow of and confirm this Act, according
“to my prerogative within my Isle of Man, and
“do order that the said Act be published and pro-
“claimed, on the Tynwald Hill, according to
“ancient form and custom of the said Isle.”

“ATHOLL and STRANGE.”

And being returned to the Governor, was, at the Tynwald Court which was held annually the

24th June, published and proclaimed on the Tynwald Hill ; an attestation of which ceremony was made by the Governor, and such of the Council and Keys as thought proper to attend, as follows :—At a Tynwald Court, holden at St. John's Chapel, the 24th day of June, 1738 :

“The before-going Act was publicly proclaimed
“upon the Tynwald Hill, according to the ancient
“form and custom of this Isle : As witness our
“subscriptions.”

Signed by the Governor, Council, Deemsters,
• and Keys.

The only Act of Tynwald passed since the revesting the sovereignty of the Isle of Man in the Crown was passed in 1777 ; and the King's approbation thereof was signified to the Lieutenant-Governor of the Island (Mr. Dawson), by a letter from Lord Suffolk, his Majesty's then Secretary of State, as follows :—

St. James's, August 21, 1777.

SIR,

Having received and laid before the King Governor Smith's letter of the 24th July, transmitting several Acts of Tynwald passed in the last Court which met at Castle Rushen, I am now to inform you, in the Governor's absence, that the said Acts have been taken into consideration, and are thought well calcul'd to promote the good order and prosperity of the Isle, as well from their contents, as from the manner in which they are recommended by the Governor, and from the sanction the **Attorney-General* has given them by his signature.

* Of the Isle of Man.

I am, therefore, to return the said Acts, and am to signify his Majesty's approbation thereof, according to the list inclosed herein.

I am, &c.,
(Signed) SUFFOLK.

Lieutenant-Governor of the
Isle of Man.



No. 39.

MINUTES OF THE ATTORNEY-GENERAL'S PROTEST
RESPECTING MEMBERS OF THE COUNCIL,
21ST SEPTEMBER, 1791.

Liber Scaccar. 1791.

At a Tynwald Court, &c.

THE Right Reverend the Bishop, and the Reverend Evan Christian, one of his Vicars-General, appearing this day in court, as members of the Council, the Attorney-General desires it may be entered on the minutes, that he having submitted to the Honourable the Lieutenant-Governor his objections against the claim of the Right Reverend the Bishop to form a part of the Council, and his still stronger objections against the like claim of the two Vicars-General, thinks it his duty to protest against the admission of these gentlemen, or any of them, in that capacity, before his Majesty's pleasure is known.

The Clerk of the Rolls declares his concurrence in the above Protest of the Attorney-General.

Rolls Office, the 21st September, 1791.

Recorded by order of his Honour the Lieutenant-Governor, by JOHN QUAYLE, C.R.

Examined by
JOHN QUAYLE, C.R.



No. 40.

CERTIFICATE, &c.

Rolls Office, Castle Rushen, the 24th October, 1791.

ADO hereby certify, That there are no precepts from the Governor, Lieutenant-Governor, or any other authority, recorded in the said office, for the convening of the Council of this Isle, relative to the laws made and enacted for the years 1422, 1532, 1637, 1643, 1647, 1661, 1662, 1664, 1665, 1667, 1703, 1704, 1711, 1712, 1713, 1726, 1733, 1734, 1738, 1739, 1741, or 1742; and that such precepts (if any there were) have been issued from the Governor, by his Secretary, to the several Coroners, and not returnable to the said office, according to the ordinary course of procedure. But in case any such precepts hath been returned upon extraordinary occasions, and recorded with the proceedings in the Chancery books, Exchequer books, or books of Common Pleas, or any of the files, search shall be made, according to further instructions in that behalf.

JOHN QUAYLE, C.R.



No. 41.

C E R T I F I C A T E.

Rolls Office, the 1st November, 1791.

J DO hereby certify, That there is no precept of the Governor, Lieutenant, or Deputy-Governor, for the purpose of convening the Council of this Isle, from the year 1742 to 1777, recorded in the said office.

JOHN QUAYLE, C.R.



No. 42.

EXTRACT FROM THE EXCHEQUER BOOKS OF THE
ISLE OF MAN, 1720, 1721, OF THE PROCEEDINGS
OF THE GOVERNOR AND COUNCIL.

[In Lieutenant-Governor SHAW's Letter of the 30th of January, 1792.]

Liber Scaccar. 1720, 1721.

At a Court holden at Castle Rushen, the 26th January, 1720,

Before the Honourable Alexander Horne, Esq., Governor of this Island; John Rowe, Comptroller; and William Sedden, Water-Bailiff:

John Corlett, of Douglas; Ro. Fayle, Jo. Lewney, and Wm. Clague, of Kirk Braddan, being this day brought upon examination before the Court, for going home and leaving the watch, after they were set upon the same, on Wednesday, at night, the 18th instant, without any body to take care thereof, and without acquainting the Warden therewith:

SPON the examination of the before complaint, and the confession of the aforesigned John Corlett, of Douglas; Ro. Faile, John Lewney, and William Clague, of Kirk Braddan; and upon consideration of the before-mentioned depositions taken in court, it appears that the said John Corlett, Ro. Faile, John Lewney, and William Clague, went away from the place where they were set to watch, before the ordinary time, without the consent of the Warden, whereby the watch-house was left naked, and no

person to supply the watch after they went; therefore they have forfeited body and goods at the Lord's pleasure, according to the statute laws of this Island.

ALEX^R. HORNE.

J. ROWE.

WM. SEDDEN.

Examined by
JOHN QUAYLE, C.R.



No. 43.

EXTRACT FROM THE EXCHEQUER BOOK OF THE ISLE
OF MAN, 1720, 1721, OF THE PROCEEDINGS OF THE
GOVERNOR AND COUNCIL.

[In Lieutenant-Governor SHAW's Letter of 30th January,
1792.]

Liber Scaccar. 1720, 1721.

At a Court holden at Castle Rushen, the 19th June, 1721,
before the Honourable Alexander Horne, Esq., Governor
of this Island; John Rowe, Comptroller; William
Sedden, Water-Bailiff and Collector; and Charles Moore,
Deemster.

WHHEREAS there was an order granted by the Governor
to the petition of William Wallerton, jun., of Kirk
Andreas, a very great object of charity, for a brief in
the several churches and chapels on the south side of the
Island, towards relieving his necessity; and the same being
read in Castletown Chapel on Sunday, the 11th of this instant,
was required to be read the Sunday following (which was
yesterday) in the Parish Church of Kirk Malew; and the
same being sent to Rev. Mr. Woods, vicar of that parish, by
the Reverend the Archdeacon of this Island, who read the
same in Castletown Chapel, and received the contributions of
that congregation the Sunday before: the said Mr. Woods
returned the same, and would not read it in his church, although
he was admonished and acquainted, by a message from the
Governor, what the law prescribed for contempts of this
nature. And the said Mr. Woods being called before the
court this day, to answer his said contempt, he alledged, That

he had another petition for a brief in his church, which he designed to read that day. And upon examination of that matter, it appears that the petition he intended to read had no reference or order thereon, only a certificate from the Chaplain of Douglas, that he had seen the original of that petition, with an order and reference to the same. And it also appears that the person who was to be relieved thereby, had been dead about five months since, of whose death the said Mr. Woods himself knew, and hath in court acknowledged. But these and other matters urged by him appearing to be only pretences to evade the reading of the said brief, according to the order granted for the same, which is contrary to the laws and practice of this Island, and in contempt of the authority and government thereof; therefore, upon deliberate consideration of this matter, the said Mr. Woods is fined in *iij^d. vi^d. viij^d.*, and to be committed for a week in Castle Rushen.

ALEX. HORNE.

CHA. MOORE.

J. ROWE.

WM. SEDDEN.

Examined by
JOHN QUAYLE, C.R.



No. 44.

EXTRACT FROM THE EXCHEQUER-BOOK OF THE ISLE
OF MAN, 1722, OF THE PROCEEDINGS OF THE
GOVERNOR AND COUNCIL.

[In Lieutenant-Governor SHAW's Letter of 30th January,
1792.]

I N S U L A M O N Æ.

Liber Scaccar. 1722.

At a Court holden at Castle Rushen, the 9th day of February, *Anno* 1721, before the Honourable Alexander Horne, Esq., Governor; the Council and Deemsters of this Isle.

WHEREAS the Right Reverend Thomas, Bishop of this Isle; John Curghey and Willm. Walker, Viccars-Generall, being duly summoned to this court to answer the complaints made by the Atturney-Generall against the said Bishop and Viccars-Generall, for several crimes and misdemeanors by them committed against the Lord's prerogative, the lawes of this Isle, and the rights, liberties, and immunitys of the subjects of this Isle; and having appeared, obstinately and contemptuously refused to answer the said complaints, offering several frivilous and evasive allegations; whereupon hearing the said Atturney-Generall, and upon consideration of several copyes of record by him produced upon the said complaints, it plainly appeares to this court that the said Viccars-Generall have illegally and contrary to an established law suspended Mr. William Bridson, Viccar of Kirk Marown, *ab officio et beneficio*. And it also appeares to

the court, that the said Bishop did of his own authority assemble and call a convocation of the clergy; and therein did assume to hear and examine matters not cognizable before such assemblies, contrary to the Lord's prerogative, and the limitations of the laws of this Isle. And furthermore, it appears to this court, that Madam Horne being summoned as an evidence in a case depending betwixt the Reverend Archdeacon Horrobin and Mrs. Puller, at a court held at Kirk Michell, the 5th of December, 1721, when and where she offered to give her evidence in the matter then in dispute; but the said Bop. and Viccars-General did not only refuse to take her evidence, but without any regard to the regular course of law, or any further citation, did at a private court afterwards held by them at Bishop's Court, the 19th of the same month, censure the said Madam Horne to grievous pittance and imprisonment, for only declaring what she was ready to make oath of, in the case aforesaid, and likewise makeing part of that censure to be for a charge she was ready to prove in court by evidence, if she had been required; which proceeding is not only contrary to law in all common cases, but contrary also to the priviledge and immunitys the Govern'r and his family ought to enjoy by the lawes of this Island. And the said Bishop has likewise illegally censured the Reverend the Archdeacon, our Hon^{able} Lord's Domestick Chaplaine in this Isle, imposeing upon him severe hardships contrary to the priviledges and immunitys which by law he ought to enjoy; which said offences and illegall proceedings do greatly tend to the subversion of the lawes and government of this Isle, the Lord's prerogative, and the rights and libertys of the subjects. Upon deliberate consideration of all which, This court doth hereby declare and adjudge their proceedings in the matters complained of, to be irregular and illegall, as contrary to the law and custome of this Island, and the Lord's prerogative as aforesaid; and, therefore, the said Bishop and Viccars-General

are ordered and required to retract and cancell their said proceedings upon the registry, under the penalty the law provides in such cases ; and that they do not presume to proceed in such matters, or against any such persons as are so privilleged by law for the future.

ALEX^R. HORNE.

DAN. MYLREA.	J. ROWE.
CHA. MOORE.	W ^M . SEDDEN.

Examined by
JOHN QUAYLE, C.R.



No. 45.

EXTRACT FROM THE EXCHEQUER-BOOK OF THE ISLE
OF MAN, 1722, OF THE PROCEEDINGS OF THE
GOVERNOR AND COUNCIL.

[In Lieutenant-Governor SHAW's Letter of 30th January,
1792.]

Liber Scaccar. 1722.

At a Court holden at Castle Rushen, the 9th day of
February, 1721.

THE annexed paper being given into court by the Bishop and Vicars-General of this Isle, when we entered upon hearing and determining the complaints made by the Lord's Attorney-General against them for their irregular and illegal proceedings, the Court, upon consideration, finds, that the said Attorney-General has acted pursuant to his oath and office, and that the said paper delivered in as before, and strenuously insisted upon by the said Bishop and Vicars-General, under the specious pretence of desiring the benefit of the law, was craftily devised, and intended on purpose only to prevent all enquiry being made into their actions and behaviour, and to destroy the Lord's prerogative, to subvert the wholesome and ancient laws and government of this Isle, and instead thereof to introduce their own arbitrary and usurped authority: therefore this Court doth adjudge and declare the same to be a most base and scandalous libel, highly injurious to our Right Honourable Lord, and the laws and established government of this Island.

DAN. MYLREA.

ALEX. HORNE.

CHA. MOORE.

J. ROWE.

Examined by

WM. SEDDEN.

JOHN QUAYLE, C.R.

NO. 46.

EXTRACT FROM THE EXCHEQUER-BOOK OF THE ISLE
OF MAN, 1722, OF THE PROCEEDINGS OF THE
GOVERNOR AND COUNCIL.

[In Lieutenant-Governor SHAW's Letter of 30th January,
1792.]

Liber Scacar. 1722.

The CASE and COMPLAINT of Madam HORNE,
humbly offered to the consideration of the Court.

THAT the Complainant being summoned by the Sumner
of the parish, to appeare as an evidence before the
Spiritual Court at Kirk Michell, in a case depending
betwixt the Reverend Archdeacon Horrobin, as Chaplain to
the Right Honourable Lord of this Isle, and one Mrs. Puller;
although she apprehends that, by the laws of this Isle, she is
exempt from their jurisdiction; yet, to avoid an example of
disobedience to the authority of any court, she appeared there,
and was ready to declare upon oath what she had said to the
said Chaplain, relating to Sir James Poole and the said Mrs.
Puller: the latter having frequently before communicated
with her from the hands of the said Chaplain; which behaviour
of hers at that time, aggravated with some other unbecoming
circumstances, did at last give this complainant such offence
as induced her to give intimation thereof to the said Chaplain,
and as she understands was one of the reasons offered by him
for advertising the said Mrs. Puller from coming to the
sacrament in my Lord's Chappell.

That although the said Chaplain was required to make
good that his reason offered for not admitting her as aforesaid,

and that this Complainant was ready to declare what she had seen as an evidence, yet her oath was refused to be taken ; and the said Sir James Poole and Mrs. Puller, without much admonition or time of consideration permitted to purgation for adultery or fornication, neither of which crimes was particularly urged against them ; and thereupon the said Court, without any other summons or citation to answer a charge, and the Complainant, who only appeared as an evidence, without regard to her reputation and character, was ordered as a criminal to perform such orders as they thought fit to impose, or to be imprisoned till she gave bonds to perform publick penance : a practice which she presumes to be not only against their own proceedings in such cases, and to the discouragement of evidences from declaring their knowledge in any matters ; but also seems to be a means to stop the mouths of all people from acquainting their pastors of the crimes they observe in any person under their care, be it never so obvious and enormous.

That besides the order of the said Court, which highly reflects upon her, and lays crimes to her charge which they never thought fit to examine into, whether they were true or not ; the said Sir James Poole and Mrs. Puller seems to be countenanced to callumniate and asperse this Complainant, by their receiving from them, and fixing upon their records, scurrilous and scandalous petitions, without either requiring them to prove or make good the scandall inserted therein, or ever acquainting her thereof for her vindication ; which she cannot help thinking was with a design to render her odious to posterity, and to countenance the irregular proceedings against her above related, and is a practice that may leave the most just and innocent person exposed to infamy and contempt, contrary to the rules of humanity and Christian charity : for if it be so grievous a sin as to be ranked in the list of murder in a person privately to backbite and secretly

aspouse another verbally, it seems to be much more so to fix such private defamation on record, to asperse them not only to the present but future ages.

This Complainant having had the happiness of an established good reputation in all places she has lived in hitherto, and among people of character and distinction, and, perhaps, much better than those whose reputation is so studiously endeavoured to be preserved; she presumes that there is no Christian country so void of good laws as not to secure her from such injurys: and therefore hopes, that the circumstances of her complaint may be taken into consideration, and that such methods will be taken as will redress her from the malicious aspersions and detractions before mentioned.

At Castle Rushen, this 10th day of February, 1721.

The proceedings against this Complainant being found to be irregular, erroneous, and contrary to the laws of this Island, therefore the same are declared invalid as appeares upon record.

DAN. MYLREA. ALEX^R. HORNE.

CHA. MOORE. J. ROWE.

WM. SEDDEN.

Examined by
JOHN QUAYLE, C.R.



No. 47.

I N S U L A M O N A E.

Copy List as abridged (in respect to number) by direction of his Honour Lieutenant-Governor Shaw, of proceedings or acts of the Governor and Council, or, as in many instances they are designed, Governor, Council, Officers, and Deemsters of the Isle of Man, extracted by order of the said Lieutenant-Governor from the Records in the Rolls Office of the said Isle by John Quayle, Esquire, Clerk of the Rolls and Clerk of his Majesty's Council, specifying the date of each; viz.:—

- | <i>Year.</i> | <i>Fol.</i> | |
|--------------|-------------|---|
| 1583. | 5, 6. | ORDERS made by Council, viz., for fencing between neighbours; against trespassing; enjoining persons whose lands adjoin the Lord's demesnes or pastures to fence the same at their own costs; against riding or labouring other people's horses, and prohibiting tenants to sell or convey their lands, without the confirmation of the Officers. Note (from the Minute or Index-book): All those are entered in the Statute-book at large, <i>vid.</i> Old Statute-book, pa. 72. |
| 1587. | 19. | Order in regard of dearth of corn, for a jury to inquire into each man's stock of corn, viz., four men to be sworn by the Coroner of each Sheading to enquire into every man's store and present the same, |

*Year.**Fol.*

- and that the same be brought to market, *sub pæna*; and that all alehouse-keepers sell a quart of ale for a penny, *sub pæna pred'*.
- 1594. 2. A proclamation that no one do cast reflection on R. Young.
 - 1597. 7. Order allowing the export of corn under certain regulations and restrictions, on certain conditions.
 - 1597. 13. Order to sell ale by sealed standard measure, species and price ascertained.
 - 25. Order none to sell ale without the Governor's licence, *sub pæna*.
 - 1609. 58. Orders for recognizances for public-house licences.
 - 1610. 7. No goods to be shipped or landed but after sun rising, and before sun set, to prevent frauds on the revenue. Note: This order signed by the Governor and Receivers.
 - 18. Order the Spiritual Statutes not to differ from those on record in the Temporal Courts.
 - 1626. 14. Order Jury to inquire into each man's stock of corn.
 - 89. Respecting measures.
 - 1644. 43. Respecting weights and measures, &c.
 - 1647. 6, 7. Respecting Pedlars, and the value of Ducketoons.

- | <i>Year.</i> | <i>Fol.</i> | |
|--------------|-------------|--|
| 1647. | | 13. Provision of Oatmeal for the Garrisons to be made by assessment upon the country for defence of the same. The assessment was ordered at so much per quarterland, and to which the Lord's as well as Barons tenants were made liable, also the clergy; the overplus, or what was not needed or used in the Garrisons, to be for the benefit of the country: and the order appears to have been by the Governor and Council, and so many of Keys present as thereunto set their names; but still assembled as a Council rather than in Tynwald, the Governor having always the power of summoning to his Council, as such, the Keys, or any number of them, as he should think proper. |
| | | 27. Concerning counterfeit money. |
| 1648. | 22, 24, 25. | Against the use of Wherns, Querns, or Hand-mills, as injurious to the Lord's (grist) mills, in substracting or defrauding the mulctures. |
| 1653. | 4, 11. | Order against forestalling, &c. All persons to bring their corn, victual, &c., to market, &c. |
| | | 28. Against harbouring runaway servants. |
| | 47, 48. | Proclamation respecting boats, &c. That all persons take care of their boates, oares, &c., to prevent the escape of malefactors off the Isle; a particular person named accused of murder. |

- | <i>Year.</i> | <i>Fol.</i> | |
|--------------|-------------|---|
| 1659. | 70. | Lord Fleetwood's commission inhibited by the Governor, &c., on the ground that no commission or writ from England, or elsewhere, could have effect or operation in the Isle of Man without, or but with, the approbation and concurrence of the Lord and his Governor and Council. |
| 1665. | 59. | Order respecting Quakers. |
| 1671. | 21. | Order respecting Ramsay Fence embankment, &c. |
| 1673. | 51. | Order allowing the exportation of corn, and Keys address thereon. This order proceeds upon a petition of the twenty-four Keys, as representatives of the people, stating, that from exportation being prohibited, the people were unable to pay their rents. The prayer of the petition being granted, the Keys present an address of thanks to the Governor and Council. |
| 1674. | 52, 53. | Order respecting Sulby River. There are several proceedings of Court and Enquest, &c., relating to the breaches made by Sulby River upon the tenants' lands, and the daily encroachments, to the prejudice of lands, mills, &c., and the remedies prescribed and ordered for repairing the same, and bringing it to its ancient course, per Governor and Officers. These, however, would seem to be in their manerial capacity. |

Year.

1676. 46. On a petition from the inhabitants of Castletown, publication is made on the Tynwald Hill, that the division of the Isle, formerly appointed, do bring their corn, victual, &c., to Castletown, *sub pœna*, fine and punishment as accustomed.
1680. 4. Order Barons tenants not to hire servants from off Lord's lands, till Lord's tenants be first served, &c. This order published in churches.
81. Governor's orders for provisions for the Lord, then soon expected in this Isle. This was somewhat in the stile of purveyance; but the people from whom any article of provisions was taken, were always allowed in their rents, or the overplus paid them at the current market prices.
1689. 15, 16. Orders respecting camps, for defence of the Island.
1692. 41, 42. Orders made by Council, viz., an order to prevent so many petty alehouses, and limiting the number in every parish: That the Captains of Arbory and Rushen (parishes) do convene themselves and companies at Darby Haven, to clear and take up the stones and rubbish lying in the mouth of the harbour, so destructive to shipping: An order for mending and making passable the way from Castletown to Peel, through Kirk Arbory, per captains and companions: Division

- | <i>Year.</i> | <i>Fol.</i> | |
|----------------------|-------------|---|
| | | of the rents of Balleyre and Loughan-na-Madgsy, &c., p. 47 : Division betwixt Henry Quirk and Sill. Gell in houses and half a quarterland, p. 50. |
| 1693. | 28. | Order for preserving the salmon frea ; dogs regulated ; and against killing salmon in the prohibited season, and therein specified. |
| 1696. | 31. | Orders in consequence of scarcity. |
| 1700. | 30. | Order against greyhounds, and killing the Lord's game without licence ; licence to be directed to the forrester. |
| | 34. | Market towns to be kept clean. |
| 1702, 3, 27, 28, 29. | | Ramsay Fence, as before. |
| | 37. | Fullers to make sufficient work. |
| 1707. | 25. | Order against a person who served a writ from Dublin, being against the laws and prerogative of the Lord of this Isle. |
| 28, 35, 36. | | Order that all mortgagees enter their names in terms, or agreeable to the act of settlement. |
| 1720. | 80. | Order concerning quarantine. |
| 1722. | 24. | Order of Governor and Council, declaring a paper exhibited by the Bishop and Vicars-General to be a base and scandalous libel. Judicial. |
| 1728. | | Order of ditto for transportation of six score bolls of corn. |

- Year.
1733. Order of ditto binding the new intacks of Kirk Braddan and Kirk Conchan to Balla-Creetch mill.
1734. Order of ditto binding the inhabitants of Lezayre parish tenants to a mill called the Speedwell.
1736. Order of ditto allowing the mountain of Carraughan to rent.
1737. Order of ditto allowance for erecting a mill in Kirk Lonnau Ψ .
1738. Order for requiring all masters of fishing smacks to be sworn, for certain purposes.
1740. Order for assessment, &c., to raise a sum of money to defray the charge of purchasing five hundred stand of arms, &c.
- Order for respiting the payment of the above till the 25th of March, and 30th June, 1741.
1741. Order for the sale of corn, and to prevent the making of malt, in consequence of the general scarcity.
1744. Order for putting in execution the former order, for raising a sum of money to purchase arms and ammunition.
1745. Order for the distribution of the arms and ammunition bought, pursuant to the former orders.
1746. Order for laying an embargo on the exportation of provisions.

Year.

1752. Answer of the Governor, &c., to the Duke, concerning the mere fence between his Grace's demesnes and Ballamoor.
1757. Several petitions and orders for enfranchising and naturalizing several natives of Great Britain and Ireland, on payment of fines, &c.
1761. Proclamation on the death of George the Second.
1768. Order of the Governor and Council for altering the districts of the two Deemsters; and a subsequent order continuing the division of the Island as accustomed, prior to said first order.
1774. Proclamation by Governor, &c., altering the mode of proceedings at law, and the payment of fees and perquisites.

JOHN QUAYLE, C.R.



No. 48.

COPIES OF PROCEEDINGS OF THE GOVERNOR AND
COUNCIL OF THE ISLE OF MAN, TAKEN FROM
THE EXCHEQUER BOOKS IN THE ROLLS OFFICE.

[In Lieutenant-Governor SHAW's Letter of the 7th of
February, 1792.

Liber Scaccar. 1582.

Fo. 11.

Int. af.

WHEREAS ther hath ben some controversie amongst the common people of the Isle, of what quantitie the selling and buyinge measures of the cuntry ought to be for appeasing and reformacon whereof and upon sufficient trial and prove what hath ben the ancient order of the Isle for measures,—It is fully concluded and agreed upon, at the court here this day holden by consent of the said Richard Sherburne captayne, and the rest of the officers present at this said court, that evry ferlet wthin the said Isle shall be made of the quantytie of thirtene pottels measured wth wheate, stricken measure, evry pottell conteynnge thre wyne quartes, Chester measure, and that one ferlet and pottel to the like quntitie and proporcione shall be made and sealed to be kept wthin eyther of the castels, to the entent that from tyme to tyme the cuntry measures may be reformed and sealed as occasion shall require, and that by the said measures, barley, otes and malte shall be upheaped, and wheate, rye, pease and fitches and beanies, to be stricken accordinge to the anncient custome of the Isle.

Examined by
JOHN QUAYLE, C.R.

Liber Scaccar. 1641.

xxviij^o die April, 1641.

Att a Co^rt houlden at Castletowne the day and yeare
abovesaid.

Forasmuch as at this Psente theare is a multetude of poore
beggars (and much more then in fformer tymes) w^{ch} wander
abroade in the cuntrie begginge over the Islande in generall
ffrom Pishe to Pishe to the greate annoyance of the Islanders:
And fforasmuch as such wanderinge beggars are bredd upp
theareby in idlnes, and doe much Pjudice to the inhabitants
by filching and stealinge, as by dayly experience is observed;
ffor Pvencon wheareof (theare beinge noe expresse order upon
recorde), it is thoughte ffitt and conveniente that every Pishe
sha'l keepe and manteyne their owne poore, by settinge the
able of bodie to worke and releevinge the impotent: And to
that ende the lockmen of the severall sheadings are enjoyned
to apprehende the bodies of all such beggars they shall fynde
begginge and wanderinge out of the Pishe wheare they weare
borne or whereunto they belonoge by their lateeste habitacons,
and to whippe them sevarely; and after that to expell and
bringe them out of his and their several jurisdicons from
Lockman to Lockman till they come to their owne Pishe
they belonoge unto as aforesaid; and this order is to bee
immediately put in execucion, and published at the next Tinwalde
Cort: And all and every the inhabitants of the Islande are
required to assiste and ayde the Lockmen in the execucion of
theis their dutie, both in helping the Lockmen in whippinge
them as aforesaid, and after in bringinge them out of the limits
where they shall be ffound wanderinge and begginge as afore-
said, every one upon Payne of fine and punishment.

JOHN GRENEHALGH.

EWAN CHRISTIAN.

JOHN SHARPLES.

ROBERT QUAILE.

HUM. BARROWS.

Examined by
JOHN QUAYLE, C.R.

Liber Scaccar. 1691.

10th January, 1690.

To Mr. Deemster Christian, Mr. Deemster Norris, Mr. Ferd. Calcott, Comp^r of the Revenew, and one of our R^t Hon^{ble} Lords Councell in this Isle, and Mr. Peter Heywood, Atturney-General, and another of the said Councell.

GENTLEMEN,

WHEREAS it hath pleased Almighty God to take out of this world our late Governo^r, by whose death some persons would infer and do openly declare that the civil government and course of law must at this time cease :

Gent. I have not been so long amongst you, as rightly to understand what must be done in this intervall ; but as far as I could, at this present time, have inquired into the Reccords, to find out what hath been done for the support of the government in such a time as this.

I am informed that Governo^r Grenehalgh was the last before this gentleman that died in this Isle in the office of Governo^r about the year 1651, and how the government was after his decease, and before another was comissioned, upheld (by reason there was noe reccord made of any act or pceeding at that time) I cannot find.

It is certainly knowne that our late R^t Hon^{ble} Lo. Charles dyed about Christmas in the year 1672, at wth time Henery Nowel, Esq^r was Deputy-Governo^r of this Isle, Richard Stevenson their late Receiv^r Generall and Assistant to the courts ; Thomas Norris and Edw. Christian, Deemsters ; Richard Tyldesley, Comp^r and Cleark of the Rolls ; and William Qualtrough, Atturney-General, notwithstanding that by the death of the said Lo. Charles the several com^{ms} of the fores^d officers determined and utterly ceased, and thereby all

authority and power to act in their several stations alsoe ceased ; yet I find that a Court of Chancery was held the 20th of February, 1672-3, and another Court of Chancery held the 14th of March in the same year, and another Court of Chancery held the 10th of Aprill, 1673 : And it alsoe appeares in the book of Comon Pleas, that the Sheading and Comon Law Courts were held and begun at Peeltown y^e 2^o June, 1673, by the afforesaid officers, and all other courts in their course ; and also the Court of General Goale Delivery was held by the said officers the 16th of June, 1673, and soe the whole course of law still continued, till his Grace the Duke of Ormond (then guardian to our R^t Hon^{rble} Lord in his minority) sent over comissions to the said officers to reinvest them in their several offices, which comissions bore date the 28th of July, 1673.

Now, Gentlemen, I observe that of the cheefe officers at present *

that loose, disorderly, and unbridled persons may doe what they please, and noe punishment can be inflicted upon them.

Gent. It doth likewise follow, that noe lycences for ingates and outgates can be granted or admitted, noe execution can be granted for disobeying the Deemster's toakens ; noe arrests can be granted ag^t any \wp sions for debt, nor ag^t \wp sions going out of the Island contrary to law ; nor noe means left to compel servants runing from their masters to returne againe to their service ; nor noe tranquillity nor peace of the Island preserved : all w^{ch} will greatly tend to the prejudice of our R^t Hon^{rble} Lord in his customs, forfeitures, &c., and in the generall great inconveniences will hereupon to the people of this Isle ensue.

* There is a line at least torn off the original.

Now, Gentlemen, here is an opportunity to give his Lopp an accompt of the present state and affaires of this his Lordship's Isle; therefore, your advice and opinion is herein desired by him who, during the goodwill and pleasure of our R^t Hono^{rble} Lord, is

Gent.,

Your fellow servant and officer,

J. ROWE.

S^r

My opinion beinge desired to the wth in particulers, I am of judgem^t that we may act accoordinge to our comissions, but to doe more we have neither law nor president to guide us. I cannot thinke safe for any of us to intermedle further, till his Hon^r pleasure be further knowne, and this is the judgm^t of me

EDW. CHRISTIAN.

January 14th 1690.

Wee haveing mett this day to consider of the foremenconed pposalls, are of oppinion that all officers may, by virtue of their comissions, act for the preservacon of the peace and tranquillity of the country; and as for ingates and outgates, and ali things relateing to his Lops customes, the same are to be managed by the Como^r, and that they may take such courses for the collecting of his Lops rents as hath been usuall; and where there is any disobedience or misdemen^r committed, and any ^{Ps}on imprisoned thereupon, they are to be released by the s^d Como^r upon bonds; and that no ^{Ps}on or ^{Ps}sions inhabitting or residing in the s^d Isle may depart thence without the lycence or liberty of the said Como^r; and that no

courts can be held or kept, nor noe actions for debt, trespass, or any other cause can be granted ; but in these, and many other cases, the governm^t is to cease until his Lops pleasure be further knowne.

EDW. CHRISTIAN

N.B. Tho ⁿ Norris.		THO: NO
P. Hewood.	<i>Sic in orig.</i>	P: H
Ferd. Calcott.		FERD:

Examined by
JOHN QUAYLE, C.R.

Liber Scaccaar. 1707.

Int. af.
Kirk Lonnan.

WILL. KEWLEY, jun^r for combineing with others to disobey and rebelliously resisting the lawes of this Isle, for making an assess for reimbursing y^e expence of the Comⁿ for p'curing an Act of Settlement^t, is ordered to pay his pporcon of the assess, to give good security for his good behaviour, to pay 10s fine to the Lord for his contempt, and all usuall fees before his releasem^t out of prison.

L s. d.

00 10 00

Jo ⁿ Parr, for the like ...	...	...	...	00 10 00
Tho. Skillicorn, for the like	...	...	...	00 05 00
Phill. Clague, for the like	...	...	...	00 05 00
Phill. Cotteen, for the like	...	...	...	00 05 00
Dan. Quark, for the like ...	...	...	...	00 05 00
Will. Looney, for the like	...	...	...	00 05 00
John Kneakle, for the like	...	...	...	00 05 00

			<i>s</i>	<i>m</i>	<i>d</i>
Tho. Skillicorn, jun ^r ., for the like	...	...	00	05	00
Tho. Nelson, for the like ...	...	...	00	05	00
Phill. Calister, for the like	...	...	00	05	00
James Brew, for the like ...	...	...	00	05	00
Phinlo Clague, for the like	...	...	00	05	00
Jo ^a Kille, for the like ...	...	...	00	05	00
Phill. Cowne, for the like...	...	...	00	05	00
James Hogg, for the like...	...	...	00	05	00
Will. Corrin, for the like...	...	...	00	05	00
William Cowne, for the like	...	...	00	05	00
Gilb ^b Cotteen, for the like	...	...	00	05	00
Thomas Clague, for the like	...	...	00	05	00
Gilb ^b Cowne, for the like...	...	...	00	05	00
Will. Looney, for the like	...	...	00	05	00
Tho. Fargher, for the like	...	...	00	05	00
Mary Kelly, for the like ...	...	...	00	05	00
James Kewley, for the like	...	...	00	05	00
Jo ^a Teare, for the like ...	...	...	00	05	00
Jo ^a Quark, for the like ...	...	...	00	05	00
Will. Brew, for the like ...	...	...	00	05	00
Jo ^a Crellion, for the like ...	...	...	00	05	00
Jo ^a Quine, for the like ...	...	...	00	05	00
Edw ^a Kewley, for the like	...	...	00	05	00
Dan. Kneakle, for the like	...	...	00	05	00
John Kneakle, for the like	...	...	00	05	00
Will. Kneakle, for the like	...	...	00	05	00
Mich. Kewley, for the like	...	...	00	05	00
Tho. Brew, for the like ...	...	...	00	05	00
Tho. Moore, for the like...	...	...	00	05	00
Dan. Calister, for the like	...	...	00	05	00
Will. Costeane, for the like	...	...	00	05	00
Will. Corrin, for the like...	...	...	00	05	00
Will. Kelly, for the like ...	...	...	00	05	00

				£ s. d.
Jo ⁿ Teare, for the like ...	...	...	...	00 05 00
Will. Brewe, for the like...	...	...	...	00 05 00
Jo ⁿ Fargher, for the like ...	...	...	...	00 05 00

Examined by
JOHN QUAYLE, C.R.

Liber Scaccar. 1720, &c.

At Castle Rushen, the 3^d Nov., 1719.

THIS day being appointed by the Governor, Officers, Deemsters, and 24 Keys, at the last meeting for the consideration of the severall annexed instructions sent over by the R^t Hon^{ble} the Lord of this Island, in order to be passed into lawes upon applicaeon made to his Lop by the 24 Keys; and having accordingly mett upon that matter, and the said proposals being publickly read, the said 24 Keys refused entering into the consideration thereof, or joining in the passing of the said lawes, unless severall other proposalls drawn up by themselves were at the same time taken into consideration and passed into lawes likewise. But this court conceiving those proposalls offered by them to have no relation to the afores^d instructions, nor consistent with the lawes and practice of this Island, the said Keys thereupon declared they would proceed no further to the consideration of the aforemenconed instructions, and so at their own request were dismissed.

Dan. Mylrea.	ALEX ^R HORNE.
Cha. Moore.	J. ROWE.
	ROBT HORROBIN, A.D.
	WM SEDDEN.
	DAN ^L M YLREA.

Examined by
JOHN QUAYLE, C.R.

Liber Scaccar. 1770.

To his Excellency John Wood, Esquire, Governor-in-Chief and Captain-General in and over the Isle of Man, and all Islands and other Dependencies thereunto belonging.

WE, the chief Officers and Magistrates of the said Isle, whose names are hereunto subscribed, in obedience to your Excellency's orders hereunto annexed, have taken the same into consideration, and find that your Excellency, as well as all preceding Governors under the late Lords Proprietors of this Isle, hath supreme jurisdiction throughout its government, whether upon land or in the ports, harbours or seas thereunto adjacent and belonging; and that the processes, actions, arrests, judgments, decrees, or other proceedings of the said Governors and other the several subordinate courts, Judges, or Magistrates, according to their respective jurisdictions, were executed below the full sea mark by officers then called the Deputy-Searchers of each port of this Isle; which office was of a complicated nature, as well for the service of civil processes, arrests, *et cetera*, as in assisting the Collectors in receiving the customs and duties, and was held by commission, during pleasure, from the said Governors or their Deputies for the time being; and the said several Deputy-Searchers were respectively sworn to the due execution of their said offices, and were amenable to the Governor's order for neglect or misconduct. And we are also of opinion, that the said office ceased upon the 21st June, 1765, when this Isle and the jurisdictions of the same became vested in the Crown, and the revenue part thereof hath been executed by officers, constituted for that purpose by the Right Honourable the Lords Commissioners of his Majesty's Treasury; and we humbly apprehend that they are not authorized, instructed, or intended to interfere in the civil department, in acting as Bailiffs, in the execution of the municipal laws of this Isle. We also find

that his Majesty has been most graciously pleased, by order of Council, to discharge the Captains in the several towns, and the soldiers under them, who had been upon the establishment under the late Lords Proprietors, and acted as well in a civil as a military character, and superceding that of the military one, to re-establish a Captain in each town and nineteen Constables, for the preservation of the peace within this Isle, and the execution of all civil processes and duties directed to them.

And upon consideration of your Excellency's said order, we are humbly of opinion that the service and execution of all actions, processes, arrests, judgments, decrees, pleadings, and proceedings, issuing from or out of any of the courts or magistrates of this Isle, or by the authority of the same, would be most legally, or regularly served by the said Captains or Constables beneath the full sea mark, and within the jurisdiction of this Isle and its dependences, in the same manner as upon land, according to the nature of their respective offices, their commissions granted by your Excellency, and the oath administered to them for that purpose. And in case your Excellency hath not already issued instructions for that purpose, that your Excellency having ample powers, and being vested with original as well as appellate jurisdiction in all causes cognizable by and before the Deemsters, Water-Bailiffs, and other the inferior courts of this Isle, may lawfully grant sufficient authority to all Captains or Constables to execute the said duties as the said Deputy-Searchers in their said civil capacity have formerly done. As witness our subscriptions at Castle Rushen, this 28th May, 1770.

JOHN QUAYLE, Clerk of the Rolls.

CHA. SEARLE, Attorney-General.

Pet. J. Heywood, }
Dan. Mylrea, } Deemsters.

RICHARD BETHAM, Water-Bayliff.

Examined by
JOHN QUAYLE, C.R.

No. 49.

JOHN QUAYLE, ESQUIRE'S PATENT FOR THE OFFICE OF
CLERK OF THE ROLLS.

GEORGE the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, and so forth, to all to whom these presents shall come, greeting: Know ye, That we very much confiding in the fidelity and prudent circumspection of our trusty and well-beloved John Quayle, Esquire, of our especial grace, and of our certain knowledge and mere motion, have given and granted, and by these presents do give and grant unto the said John Quayle, the office and place of Clerk of the Rolls of and in our Island of Man; and him, the said John Quayle, Clerk of the Rolls of and in our aforesaid Island of Man, We do by these presents constitute, ordain, depute, and appoint, to have, hold, exercise, and enjoy the said office of Clerk of the Rolls of and in our aforesaid Island, unto him the said John Quayle, for and during our pleasure; to take and receive, in and for that office, all and singular the rights, fees, profits, privileges, and advantages thereunto belonging or appertaining, in as full and ample manner and form as any other person or persons formerly having or occupying that office hath or have held and enjoyed the same: Provided always, and we will, and by these presents firmly enjoining do command that the said John Quayle be and shall be resident within our aforesaid Island, and that he shall execute the said office in his own proper person, except in case of his sickness, or any other incapacity. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the fifteenth day of June, in the ninth year of our reign.

By Writ of Privy Seal,
COCKS.

Examined with the original patent, the 15th Oct., 1791,
by JOHN QUAYLE, C.R.

No. 50.

C H A P L A I N .

(In the DUKE OF ATHOLL's Letter of 3d Feb., 1792.)

Liber Irrotulamentor. 1702.

THE Most Noble John, Duke of Atholl, and Charlotte,
Duchess of Atholl, Baroness Strange, Lady of Mann
and the Isles, &c. To all to whom these presents
shall come: Know ye, That we the said Duke and Duchess
have nominated, constituted, and appointed, and by these
presents do nominate, constitute, and appoint the Reverend
Mr. Thomas Castley to be our Chaplain, to act and officiate
in our chappel at Castle Town; for which service we do
hereby allow him the yearly salary of twenty-five pounds Brit.
to be paid by our Receiver for the time being out of our
revenue in the said Isle; to continue during our good will and
pleasure. Given under our hands and seals, at London, the
18th December, 1764.

(L. s.) **ATHOLL.**

(L.s.) **C. ATHOLL and STRANGE.**

Feb. 8th, 1765.

A true copy of the original commission,
inrolled and recorded by **JOHN QUAYLE,**
Compt. C. Rolls.

Examined by
JOHN QUAYLE, C.R.



No. 51.

CONSTABLE AND CAPTAIN OF THE GARRISON OR
CASTLE RUSHEN.

(In the DUKE OF ATHOLL's Letter of 3d Feb., 1792.)

Liber Irrotulamentor. 1702, &c.

THE Most Noble John, Duke of Atholl, and Charlotte,
Duchess of Atholl, Baroness Strange, Lady of Mann
and the Isles, &c. To all to whom these presents
shall come: Know ye, That we the said Duke and Duchess,
out of the confidence we have of the courage, ability, and
fidelity of Matthias Taggart, of Castletown, Gentleman, have
nominated, constituted, authorized, and appointed, and by
these presents do nominate, constitute, authorize, and appoint
him, the said Matthias Taggart, to be Constable and Captain
of the Garrison of Castle Rushen, and of the Foot Company
of the said Garrison and Castletown belonging; giving and
hereby granting unto him, the said Matthias Taggart, full
power and authority to execute the said trust and post in all
things thereunto belonging, according to the laws and customs
of the said Isle, to the rules and orders of the said Garrison,
and to the tenor of the oath usually administered in that
behalf; and to train up and exercise the said company accord-
ing to the rules, orders, and discipline of war; willing and
hereby requiring the said company, and all inferior officers of
the same, to be aiding, assisting, and obedient to all your
lawful commands, as you are also to do, perform, and obey
all such orders, directions, and instructions, as you shall from
time to time receive from us, or from our Governor, or his
deputy or deputies of the said Isle for the time being, or other
your superior officer or officers empowered in that behalf; and

to have and receive the usual yearly salary of twelve pounds per annum. For all which this shall be your commission, to continue during our good will and pleasure. Given under our hands and seals, at London, the 18th Dec., 1764.

(L. s.) ATHOLL.

(L. s.) C. ATHOLL and STRANGE.

February 8th, 1765.

A true copy of the original commission,
inrolled and recorded by JOHN QUAYLE,
Compt., C. Rolls.

Examined by
JOHN QUAYLE, C.R.



No. 52.

STEWARD OF THE HOUSES, DEMESNES, AND
GARRISONS.

(In the DUKE OF ATHOLL's Letter of 3d February, 1792.)

Liber Irrotulamentor. 1702, &c.

THE Most Noble John, Duke of Atholl, and Charlotte,
 Duchess of Atholl, Baroness Strange, Lady of Mann
and the Isles, &c. To all to whom these presents
shall come: Know ye; That we, the said Duke and Duchess,
have nominated, empowered, and appointed, and by these
presents do nominate, empower, and appoint, John Taubman
to be Steward of our Houses, Garrisons, and Demesnes, in
our said Isle, giving and granting unto him full power and
authority to perform and execute the said place according to
his duty and the tenor of the cath usually administered in that
behalf; and we do hereby authorize him, the said John
Taubman, to collect and levy, and to render a true account of
all casualties upon his charge as a Steward of our Houses,
Garrisons, and Demesnes aforesaid, to us or our Governor, or
other our officers empowered in that behalf for the time being,
yearly and every year, or as often as he shall be called upon
for the same; to hold and enjoy the said Stewardship, with
all perquisites and profits thereunto belonging, together with
the accustomed yearly salary, and to observe such directions
and instructions as he shall from time to time receive from us,
or from our Governor of the said Isle for the time being; and
to continue this employment during our good will and

pleasure. Given under our hands and seals, at London, the
18th Dec., 1764.

(L. s.) ATHOLL.

(L. s.) C. ATHOLL and STRANGE.

Feb. 8th, 1765.

A true copy of the original commission,
inrolled and recorded by JOHN QUAYLE,
Compt. C. Rolls.

Examined by
JOHN QUAYLE, C.R.



No. 53.

STEWARDS OF THE ABBEY LANDS.

(In the DUKE OF ATHOLL's Letter of 3d Feb., 1792.)

Liber Irrotulamentor. 1702, &c.

 THE Most Noble John, Duke of Atholl, and Charlotte, Duchess of Atholl, Baroness Strange, Lady of Mann and the Isles, &c. To all to whom these presents shall come: Know ye, That we the said Duke and Duchess, have made, ordained, constituted, authorized, and appointed, and by these presents do make, ordain, constitute, authorize, and appoint Daniel Lace and Peter John Heywood, Gentlemen, to be jointly Stewards of the Abbey Lands within our said Isle, giving and hereby granting unto them full power and authority to execute the said office and place of Stewards of the Abbey Lands, in all things according to the laws and customs of our said Isle, and the tenor of the oath usually administered in that behalf; and to receive the accustomed salary, with all fees, perquisites, and profits to the said office belonging; for all which this shall be their commission; to continue during our good will and pleasure. Given under our hands and seals, at London, the 18th December, 1764.

(L. s.) ATHOLL.

(L. s.) C. ATHOLL and STRANGE.

Feb. 8th, 1765.

A true copy of the original commission,
inrolled and recorded by JOHN QUAYLE,
Compt., C.R.

Examined by
JOHN QUAYLE, C.R.

No. 54.

Liber Juramentor.

The Oath to be administered to the several Captains, Officers, Soldiers, and others, who are to be sworn to assist the Deputy Searchers of the several Ports of this Isle, pursuant to the Honourable Governor's Order in that behalf, bearing date the 11th October, 1755.

 YOU shall with diligence and attention carefully observe what goods are landed in this Isle from on board any ship or boat; and if the same be so landed without an entry, or if you shall have any intimation that any goods are so landed, you shall seize the same according to the Governor's order for that purpose.

So help you God.

11th October, 1755.

The above OATH was administered to the several persons under-written :—

Richard Ellison	James Clark, his X
William Kissag	John Kelly
Richard Ellison	James Lace
James Brew	Randle Fare
John Seolfield	Farbrother
John Buchannan	John Kermod, his X
Silvester Callister	John M'Creach, his X
John Buchanan	John Callister
Thomas Bell	Wm. Wainwright, my X
Thomas Quayle	John Hamilton
James Parr	Robert Wood
Silvester Fairbrother	Robert Cotteen, my X
John Cotten	James Cowll

John Callister	Thomas Taubman
Joshua Brew	John Redfern
John Fairbrother	Wm. Curlett, my mark X
Wm. Qualtrough, my X	John Kowen
Edwd. Walkington, my X	William Killey
Thos. Christian	Jon. Saint
James Harrison	Richd. Halsall
Wm. Quayle, his X	William Killey
James Scofield	Hen. Killey, my mark X
Richard Slater	John Moore
William Chapman	Wm. Quayle
William Ingolby	Thos. Corkill.

By and before me, JOHN QUAYLE, Comptroller.

At Castle Rushen, the 3d January, 1756.

The within Oath was this day administered to Phill. Higgins.

Sworn by me,	Phillip Higgins
Dan. Mylrea.	John Shimmin.

The before-going Oath was administered to the several persons whose names are subscribed at the dates prefixed to their names, by

JOHN QUAYLE, Comptroller.

Feb. 8th, 1759.

George Young, his X	Nicholas Corkill
William Quayle, his X	Philip Fargher
Patrick Lace	Isaac Palmer.
Randle Farbrother	



No. 55.

THE OATH ADMINISTERED TO THE GOVERNOR PRIOR TO
THE REVESTMENT.

The Oath administered unto the Governors of this Isle.

XOUR allegiance to the King's Majesty of Great Britain reserved;

You shall bear true faith and fidelity to his Grace James Duke of Atholl, Lord of Mann and the Isles, and his heirs, during your life.

You shall not reveale the secretts of this Isle, nor houses or garrisons therein, to any foreigner or stranger.

You shall truly and uprightly deale between the Lord and his people, and as indifferently betwixt party and party as this staff now standeth, so far as in you lyeth.

You shall take the advice and consent of the rest of the Lords Council of the said Isle, or so many of them as shall be present within the Isle, in all matters that concern the State and Government of the said Isle and houses.

These and all other things appertaining to the Governor of this Isle, his office and place, you shall, according to the purport and extent of your commission, and the laws of the said Isle do and perform, so far as in you lyeth.

So God you help, and by the contents of this Book.

Examined by
JOHN QUAYLE, C.R.

No. 56.

THE OATH OF THE GOVERNOR SINCE THE REVESTMENT.

JOHN WOOD, Esquire, do swear, that I will truly and uprightly deal between our Sovereign Lord the King and his subjects within this Isle, and as indifferently between party and party as this staff now standeth, so far as in me lyeth; and when I think it necessary, will call together the Council of this Isle, or so many of them as shall be present within the same, and advise with them in any matter that may concern the State and Government thereof; and that I will do and perform, as far as in me lyeth, these and all other things appertaining to the Government of this Isle, and the post and office of Governor-in-Chief and Captain-General, according to the purport and extent of my commission.

So God me help, and by the contents of this Book.

Examined by
JOHN QUAYLE, C.R.



No. 57.

THE OATH OF A. SHAW, ESQUIRE, LIEUTENANT-GOVERNOR, 7TH JANUARY, 1791.

[In the Bishop of Sodor and Mann's Letter of the 7th of November, 1791.]

JOHN WOOD, Esquire, do swear, that I will truly and uprightly deal between our Sovereign Lord the King and his subjects within this Isle, and as indifferently between party and party as this staff now standeth, so far as in me lyeth; and when I think it necessary, will call together the Council of this Isle, or so many of them as shall be present within the same, and advise with them in any matter that may concern the State and Government thereof; and that I will do and perform, as far as in me lyeth, these and all other things appertaining to the Government of this Isle, and the post and office of Governor-in-Chief and Captain-General, according to the purport and extent of my commission.

So God me help, and by the contents of this Book.

At Castle Rushen, the 7th day of January, 1791.

The within Oath to be administered to the Governor of this Isle, was this day taken by the Honourable Alexander Shaw, Esquire, sworn Lieut.-Governor, by virtue of a commission under the King's Sign Manual, bearing date the 26th day of November last; and the said Honourable Alexander Shaw also took the oaths, and made the declaration within written, according to the several laws of Great Britain provided in that behalf, as witness his subscription. ALEX^B SHAW.

Before us, Wadswth Busk.
 John Quayle.

Examined by JOHN QUAYLE, C.R.

No. 58.

THE OATH OF STEWARD OF THE GARRISON BEFORE
THE REVESTMENT.

*The Oath administered to the Steward of the Garrisons of
this Isle.*

MYOUR allegiance to the King's Majesty of England reserved.

You shall be true, and true faith and fidelity bear to his Grace James, Duke of Atholl, Lord of Mann and the Isles, and his heirs, during your life.

You shall not reveale the secretts of this Isle, nor houses or garrisons therein, to any foreigner or stranger.

You shall not committ nor suffer to be committed any voluntary or willfull wast by any manner of person ; but you shall reveale or amend the same as it lyeth in your power, if not, you shall reveale it to some chief officer, to the end the same may be amended.

You shall be carefull in all such things as shall be put into your charge as Steward of the said Garrisons and Demeasnes, and of which now you are to take an inventory so oft as you shall be required thereunto by the Governor, Deputy-Governor, or other officers concerned, and about the repairing of the Lord's houses, in keeping a true and perfect inventory of the Lord's stoare and utensils of what nature soever, and a perfect book or accompts of payment and disbursements for provision and necessaries for the said garrisons and houses, for repairacon, and other works there from time to time.

And all other things wherewith you shall have to do, or that unto you shall appertain to take notice of and execute as Steward, to give a true and just accompt of those things as oft as you shall be required or called upon by the officers concerned, according to the trust in you reposed, and as to the said place is proper and pertinent, to the best of your ability.

So God you help, and by the contents of that Book.

Examined by
JOHN QUAYLE, C.R.



No. 59.

THE OATH ADMINISTERED TO THE STEWARD OF THE ABBEY LANDS BEFORE THE REVESTMENT.

*The Oath administered to the Steward of the Abbey Lands
within this Isle.*

OUR allegiance to the King's Majesty of Great Britain
reserved.

You shall bear true faith and fidelity to his Grace James,
Duke of Atholl, Lord of Mann and the Isles, and his heirs,
during your life.

You shall not reveale or disclose the secrets of this Isle,
and houses or garrisons therein, to any foreigner or stranger.

You shall not commit nor suffer any voluntary or willful
wast committed or done by any manner of person ; but you
shall reveale or amend the same, as it lyeth in your power.

You shall duly and truly receive as well the receipts of
moneys to be levyed for the s^d Lord's use within your charge
of the office of Steward and Receiv^r of the Abbey Revenues,
as all such customs or other commoditys due to be paid unto
the s^d Lord and his heirs appertaining to your s^d charge.

You shall deal uprightly, truly, and indifferently betwixt
the said Lord and his tenn^{ts} for and concerning the s^d receipts
of money and customs, or other matter wherein you have to
deale with the said tenn^{ts} for the s^d Lord or otherwise, with-
out spareing the rich or oppressing the poor, or without any
other unlawfull exacccions, other than such as is necessary for
the use of the Lord and safe keeping of the s^d Isle and houses.

You shall make true and just accompts of all your receipts
of money and customs afores^d as oft as shall be convenient

or need requires you to be called upon by the Lord or the Officers authorized to call upon you for the makeing of the said accompts.

You shall generally, to your knowledge, do and execute all and every other matters and things belonging to the due execution of the said office, and not herein before expressed by special words, as well in keeping the Abbey Courts, as all other matters wherein you have to deal with the s^d tennants to and for the best use of the said Lord and Isle, without oppression or concealment as afores^d.

So God you help, and by the contents of that Book.

Examined by
JOHN QUAYLE, C.R.



No. 60.

THE EXAMINATION OF MR. GEORGE SAVAGE, WATER-BAILIFF OF THE ISLE OF MAN, TAKEN AT DOUGLAS
THE 4TH AND 11TH OF OCTOBER, 1791.

THIS Examinant saith,—That he has been Water-Bailiff of the Isle of Man since February, 1789, under a commission from the Lords of the Treasury of that date, at a salary of eighty pounds sterling per annum, payable by Government, and a farther annual salary of twenty pounds sterling, payable out of the Herring Custom, by virtue of an Act of Parliament, intituled, “An Act for encouraging and regulating the Trade and Manufactures of the Isle of Man.” By virtue of this office this Examinant presides in all Admiralty Courts and Maritime Jurisdictions within the Island: That he is one of the Governor’s Council when called upon: That he takes an oath of office, and is entitled to a fee of six pence upon signing every petition for a hearing of any cause in the Admiralty Court, and a fee of three pence upon every summons to compel an attendance before him; and likewise a fee of six pence for every decree pronounced by him: That the whole of these fees has not, in any one year since he has held this office, amounted to more than four pounds Manks. He resides at Peel, and holds an Admiralty Court every Saturday in his own house there, throughout the year; but may hold his court in any other place that he appoints.

That his court holds cognizance of all pleas of the Crown respecting offences committed on the seas, within the distance of three leagues from the shores of the Isle of Man, and has a superintendence over all matters relative to the herring fishery, according to the ancient statutes of the Isle of Man.

An appeal lies from his determination in civil suits to the Governor; in criminal cases his determination is final.

He appoints Deputy Water-Bailiffs at the ports of Ramsay and Darby Haven, to superintend those harbours, and to put in execution an Act, intituled "An Act for repairing, mending, "and supporting the Harbours and Sea-ports in the Isle of "Man;" and this Examinant himself superintends the harbour of Peel.

These Deputy Water-Bailiffs are paid a salary of five pounds sterling per annum each, out of this Examinant's pocket.

The Court in which he presides is not a Court of Record, and has no officer in it but himself.

Respecting the process of his Court in civil suits, when any person intends to commence a suit therein, he applies to this Examinant either verbally for a summons against the defendant, or by petition, in which the cause of complaint is stated; a summons is thereupon granted to appear at the next court after the date of the summons, when the witnesses are examined *rivid voce*, and the cause is heard and determined by this Examinant, either with or without the intervention of a jury, at his discretion. In cases where this Examinant chooses to refer to a jury, he issues a warrant to the Coroner to summon four persons out of his Sheading, who attend at the time appointed to hear the evidence and give their verdict, which must be unanimous, and upon which his decree is pronounced.

In all criminal cases a jury of six persons must be summoned, whose verdict must be unanimous: but since he has been Water-Bailiff no criminal case has come before him.

Jn^o Spranger.

GEO. SAVAGE.

W^m Osgoode.

Will^m Roe.

David Reid.

No. 61.

THE EXAMINATION OF MR. THOMAS WHITTAM,
CHIEF CONSTABLE OF THE TOWN AND DISTRICT OF
DOUGLAS, IN THE ISLE OF MAN, TAKEN
THE 3D OF OCTOBER, 1791.

HIS Examinant saith,—That he has been Chief Constable of the town and district of Douglas, and Gaoler of the Fort or Prison there, between three and four years, under a commission from the Governor: That he takes an oath of office, and hath a salary of five pounds sterling per annum. The duties of his office are, to serve the first process from the Court of Chancery; to arrest debtors; and to serve process in case of contempt for non-appearance in the Court of Chancery, the Deemsters, the Vicars-General, and High-Bailiffs Courts. He is a peace officer, and to be called upon in all cases of breach of peace. Upon receipt of the before-mentioned processes, he is to take up the persons against whom they are issued, and conduct them to the respective courts from whence the process issues, except in the case of the first process from the Court of Chancery, where bail is allowed, and for this duty he is entitled to a fee of one shilling Manks, and an additional fee of four pence Manks for every parish, after the third, through which he conducts his prisoner to the court from which process issues. The district of Douglas comprehends four parishes; namely, Concon, Lonnañ, Marown, and Braddan. It is also his duty, within his district, to issue out the Governor's passes, or licences, to persons to quit this Island, and he receives two pence Manks upon the delivery of each pass. The Island is divided into four districts; namely, Douglas, Castletown, Peel, and Ramsay; each of these districts has a Chief

Constable, whose office, duties, salary, and fees, are the same as are herein before described, except the salary at Castletown.

That the prison at Douglas is for the confinement of persons guilty of felony, or breach of the peace, and was formerly made use of for that purpose ; but is at present in a very ruinous condition, and insufficient for the purpose of confining offenders, without having a guard set over them.

THOMAS WHITTAM.

Jn^o Spranger.

W^m Osgoode.

Will^m Roe.

David Reid.



No. 62.

THE EXAMINATION OF MR. DANIEL QUARK,
CORONER OF GARFF SHEADING IN THE ISLE OF MAN,
TAKEN AT DOUGLAS THE 4TH DAY OF OCTOBER,
1791; AND SIGNED THE 21ST OF
OCTOBER, 1791.

HIS Examinant saith,—That he is a Coroner of the district of Garff Sheading; that it is an annual office, with a salary of three pounds sterling per annum, and is in the appointment of the Deemster.

That, in civil suits, the duty of his office is to summon all Juries, in pursuance of warrants issued by the Deemster, and also to serve and levy all process of execution awarded by the Governor, Deemster, Water-Bailiff, and High-Bailiff; and likewise, in pursuance of the Deemster's warrant, to summon and swear a Jury of Inquiry in all matters of trespass within his Sheading, and to serve the first process of summons in all actions commenced in the Courts of Common Law.

That he likewise, in pursuance of the Receiver-General's Precept, once a year gives notice to the master of every herring boat in his district to attend at the Custom-house, to pay the herring duty, upon a day appointed.

That he also gives notice, by virtue of a Precept from the Clerk of the Rolls, to all persons who mean to take out licences for keeping public-houses, to attend on a day appointed for the purpose of granting such licences.

That in criminal matters he executes all search warrants, apprehends offenders, and serves summons to all Juries in pursuance of the Deemster's warrants.

That in civil matters he receives a fee of six pence from the plaintiff upon the summons of every trespass Jury, and is entitled to a fee of two pence from the plaintiff, for the service of every first process of summons in all civil actions.

His Sheading comprehends the parish of Kirk Maughold, Kirk Lonnion, and Kirk Concon. There are six Coroners in the whole Island, whose districts comprehend the seventeen parishes into which the Island is divided, and whose duties are, within their districts, similar to those which he has before described in this examination.

DAN^L QUARK, Coroner
of Garff Sheading.

Jn^o Spranger.

W^m Osgoode.

Will^m Roe.

David Reid.



A P P E N D I X (A.)

A P P E N D I X (A.)

No. 69.

A LIST OF THE NUMBER OF QUARTER LANDS OF LORD'S LAND, IN THE SEVERAL AND RESPECTIVE PARISHES OF THE ISLE OF MAN.

Kirk Patrick...	...	...	...	35½
German	...	...	...	39½ and 4th part
Michael	...	...	...	45½
Ballaugh	...	...	...	34½
Jurby	...	...	...	18½ and 4th part
Andreas	...	...	...	58
Bride	...	...	...	42
Lezayre	...	...	...	33 and 4th part
Maughold	...	...	...	38
Lonnan	...	...	...	52½
Conchan	...	...	...	40
Braddan	...	...	...	38
Marown	...	...	...	30½
Santan	...	...	...	35
Malew	...	...	...	26 and ¼th
Arbory	...	...	...	32
Rushen...	...	...	...	40

Vide Hooper's Survey 1608; in all...639½ Quarter Lands.

Besides these, there are above 2,700 cottages and intacks,
all which are Lord's Land; with 79 mill rents.

**A LIST OF THE NUMBER OF COMPUTED QUARTER LANDS,
FORMERLY BELONGING TO THE DISSOLVED MONASTERY OF
RUSHEN IN THE ISLE OF MAN, CALLED**

ABBEY LANDS.

Malew	...	...	...	...	52
German	...	...	...	...	13
Sulby in Lezayre	...	...	...	...	10
Skinsco in Kirk Lonnan				...	5
Braddan	...	...	...	...	18
Rushen	...	...	...	...	1½
				In all	99½

Besides 6 mills and 77 Abbey cottages.

His Grace the Duke of Atholl is Lord of all and every the before-mentioned Lords and Abbey Lands.

Barony of Bangor { Situated in Kirk Patrick, mentioned in and Sabal, { the grants thereof from the Crown to whom it belonged, to consist of seven quarter-lands, but computed to only six quarter-lands, as appears by the rental.

N.B.—His Grace the Duke of Atholl has a grant of this Barony for a term of years from the Crown, twenty of which are unexpired.

Bishop's Barony. The Barony belonging to the Lord Bishop consists of 19½ quarter-lands.

Barony of St. Trinions, Situate in the parishes of German and Marown, consists of five quarter-lands. This was purchased by Mr. Quayle along with the impropriate

Mr. Quayle's purchase tythes of Kirk Marown from the is dated 30th of May, present Duke's father, in virtue of a 1763. certain indenture *sexpartite* of feoffment, and in conjunction with Duke James, for the sum of five hundred pounds Manks.

Mr. Quayle holds a Court for this Barony.

Portion of Land in Kirk Maughold, { said to be a Barony, the property of John Christian Curwen, Esquire ; consisting of a small tenement, called Ballellen, or Ballallin, computed to half a quarter-land ; which, with the remainder thereof, consisting of a parcel of heathy land and hough or strand, is rated in the parish accounts to one quarter-land.

N.B.—It is said the quit-rent of Ballellen, or Ballallin, has been raised from twenty shillings Manks to twenty shillings British some years ago, which quit-rent is payable to Mr. Christian Curwen.

Note.—Mr. Curwen holds no Court.

A small portion or district in Kirk Maughold, { Called Staff Land ; the quit-rents or dues thereof go to his Grace's impro priator or lessee of the impropriate tythes of Kirk Maughold.

6th Octr., 1791.

The before-going statement of the quarter-lands in the Isle of Man, called Lord's Land, has been extracted by me from a book upon the records of his Grace the Duke of Atholl, Lord of Man and the Isles, &c., called Hooper's Survey, or Mr. Hooper's Book, purporting to be an inquisition taken in the year 1608 ; and so far as regards the Abbey Lands, the Baronies, or other Lands subsequent thereto, has been collected by me from the best computation and information which I could obtain and collect ; and as such, is certified by me

RICHARD CLAGUE,

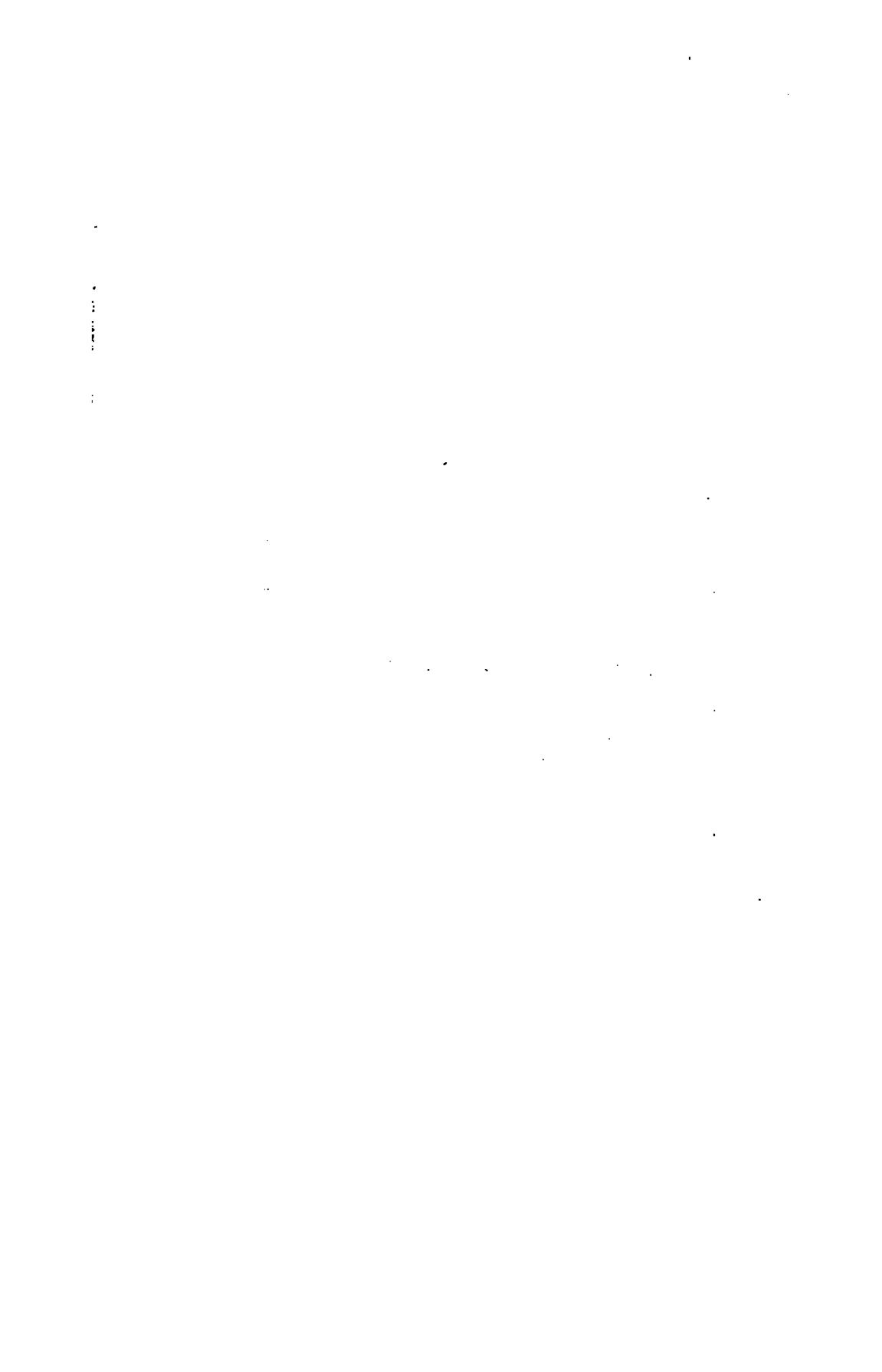
Clerk to the Commissioners of his said Grace for the managing of his estate in the Isle of Man, and Keeper of his Records in the Isle of Man aforesaid.

The above is given in to prove my general connexion with the Isle of Man.

ATHOLL.



A P P E N D I X (B.)



A P P E N D I X (B.)

No. 83.

LETTER FROM LIEUTENANT-GOVERNOR SHAW.

SIR,—

HAVING as yet but for a few months resided in, or had access to be in any effectual degree acquainted with the concerns of the Isle of Man; and though I most lament, therefore, and from other causes which might be mentioned, how very little I find myself qualified to inform or otherwise assist his Majesty's Commissioners in the several objects of their inquiry, or in any degree proportioned to that zeal I feel, and would wish to manifest for his Majesty's service on every occasion, and on the present more especially, when that royal and paternal goodness which has been ever exerted for the happiness and prosperity of all his people, is extended to the Isle of Man, in the beneficent wish to render that also prosperous and happy; yet, Sir, in obedience to the commands of my most gracious sovereign, to the best of my power, and in compliance with the requisition of the Commissioners themselves, I shall take leave, Sir, through you, to lay before the Commissioners such matters as, relative to the objects of their mission, have occurred to me, and which, in my humble opinion, appear not unworthy their consideration.

And first, Sir, in regard to the Constitution of the Isle of Man :—

CONSTITUTION.

It can scarce admit of a doubt, that the Isle of Man was originally peopled from the same great Celtic stock by which, with by much the greater part of Europe, the Islands of Great

Britain and Ireland were first peopled ; of this the language, still in great measure Celtic, is a proof demonstrative : Yet, in respect to government and laws, the Manks appear, in all ages, to have been a distinct people, and in some degree an independent, or not annexed to any other kingdom ; and though the Island or Kingdom of Man appears to have undergone several revolutions in its government, and at different periods to have been dependent on one or other of the British crowns, and that of Norway or Denmark, yet it appears also that, beyond all record among themselves, their Constitution has been *free*, or as much so as compatible with the tempers of the times, or latterly within record, consistent with the feudal tenures and feudal ideas under which the people held : And these, probably first derived from England, seem, or the effects of such system only, to have retained longer footing in the Isle of Man than, in some respects, they have done in England. The people, however, beyond all written record, have clearly within, claimed and enjoyed the right and privilege of being governed and regulated by laws of their own making, or consented to by themselves, or by their constitutional representatives. Regulations indeed, under the name of ordinances, have sometimes been issued in name of the Lord by the Governor and Council, which have been admitted as laws into the statute books, and some of them without any further confirmation of the Legislature : And the Keys also, in some cases, seem to have assumed and been allowed a similar privilege.

LEGISLATURE.

The proper and acknowledged Legislature consists of *three Estates*, viz., the Sovereign, the Governor and Council, and the House of Keys : And this Legislature, free and independent as respecting the Isle of Man, is competent to the passing of all Acts whatever of internal legislation or

regulation as fully and effectually to all (internal) intents and purposes as any other Legislature on earth within its country or kingdom, and as entirely binding and obligatory on the persons and properties of all persons whatever within the Isle. To maintain this independence of the Legislature, is held to be a first duty of every Manksman ; and its competence to all acts of internal concern, and in these being governed and regulated by laws of their own making, with the assent of their most gracious Sovereign, justly constitute the chief or highest pride of all his Majesty's Manks subjects, and the privilege which last, or with but life, they would wish to undergo : They dread therefore, and must ever dread, the interference in their internal concerns, or even a precedent being made for such interference from any other Legislature on earth ; even the British, which though known to be generous in the extreme, yet from misrepresentation and thence misconception, still within the possibility of being less or more unjust ; necessarily unacquainted, or not perfectly acquainted, with the laws, the needs, the wants, the customs, or modes of thinking of Manksmen, no other Legislature can easily be so competent to legislate for them internally. With the power of making laws is included, of course, that of altering, amending, and, where needful, or the change of circumstances points out the necessity or propriety, of repealing laws altogether ; and of such necessity or propriety it is conceived by the people (or those among them who think) that they themselves, as best acquainted with their own circumstances, and humbly representing to their most gracious Sovereign, must be better judges than any other Legislature can be for them.

HOUSE OF KEYS.

This estate or branch of the Legislature is composed of twenty-four members, and in its present functions, both

legislative and judicial, appears to have existed from a very remote antiquity.* The members have their seats for life, but with the power of resignation with consent of the Governor. Residence for years out of the Isle, or having avowedly fixed their abodes in other countries, vacate not their seats as Keys. This is considered as an evil requiring remedy, more especially as in their judicial capacity thirteen, a majority of the whole number, must concur in the verdict or decision. In filling up a vacancy (by death, resignation, or crime forfeiting the privilege) the manner is, the Keys, or a majority of them (thirteen make a House), choose to elect two persons: These are presented by the Speaker, with a committee from the House, to the Governor, and he selects one of them, who thereupon, being before the Governor in Council sworn in, takes his seat. The qualification entitling to a seat is small and definite with respect only to the nominal extent of land estate, viz., a quarterland;† but the Keys are in general men of considerable property in the Isle. This mode of election seems but very ill to accord with any idea of popular representation, and in theory, in that and other respects, it appears liable to much objection. But the Keys in their present form and constitution have, as I have said, existed many ages; and I confess, with every degree of consideration I have been able to give the subject, consulting too with sensible men of all parties and descriptions, I do not see that at present at least, or as matters now appear, that any other mode would be more eligible or more beneficial to the Isle. This, however, is but opinion on my part, and founded on but short experience.

* By an Act of Tynwald in 1777 the Keys were deprived of some part of their appellate jurisdiction, but which is, or it is hoped will be, by a Bill now before his Majesty for the Royal Assent, restored to them. (Original note.)

† Quarterlands differ in their value, and may be worth from £15 to £190 per annum. (Original note.)

COUNCIL.

This estate, by the ancient constitution (and still unaltered by any law or order that I know of), was composed of members who were such *ex officio*, and as set down (though perhaps in order or precedence different from that in which he has placed them) to the Commissioners by his Majesty's Deemster or chief judge: But from a difference of opinion lately arisen respecting this estate, or its component members, the Commissioners will see in it a matter which at least would need to be defined and ascertained in all time to come.

On my arrival in the Island, and as it now remains, I found the Council composed as follows of members regularly sworn in as such, viz.: The Governor,* the Lord Bishop (who as premier Baron always, when present, sits and signs next to the Governor), the Deemster, the Attorney-General, the Archdeacon, Archdeacon's Official, the two Vicars-General, and the Clerk of the Rolls. The Receiver-General does his duty by deputy, who has not a seat, and the Water-Bailiff, if now entitled to a seat, does not appear to have been sworn in. [I more than once have desired of the Clerk of the Rolls to furnish me with a list or roll of the Council as by him (the keeper also of all the public records), *sworn in*; but under pretences which I have thought frivolous, my requisition has not been to this hour complied with.] But I found also, it had for some time been a custom to exclude the clerical members from their seats, and, as appears, by the mere will and pleasure of the Governor or Lieutenant-Governor for the time being; for it does not appear that it was done by any law, order, or instruction whatever, or which I could either find out, or even hear of. Knowing the pure integrity and zeal for his Majesty's service, and for the good of his

* In absence of the Governor-in-Chief the Lieutenant-Governor possesses all his powers whatever, and with these all the responsibility. Different from what I believe to be the case in the American Dependencies of the Crown; in the Isle of Man the Governor and Council form but one Estate. (Original note.)

Majesty's subjects, over whom they had been sent to govern, with which those gentlemen,* under whom such exclusion had taken place, had been always animated, I am perfectly convinced they acted in the matter from reasons which to them appeared most cogent: But as those reasons, as stated to me, nor any otherwise urged, appeared not to me in the same light; and as I could not conceive that *any could be* of sufficient weight to authorize any mere Governor to alter what he conceived (as was the case with me) the constitution of a country, and in that, as in the present instance, deprive men of a privilege or franchise which, unquestioned before, they had enjoyed from time immemorial, I scarce hesitated when any matter of general concern occurred, to summon the *whole* of the Council, and not any one part, as had in my mind improperly been for some time the custom; to have acted otherwise, and more especially in any matter of legislation, or even general concern, I should have considered as little other than garbling a Legislature, a power, in any analogy with the British Constitution (to which I conceived this to assimilate) I conceived not to be in any one man. Lately, however, on occasion of assembling the Legislature of the Isle to receive his Majesty's Commissioners, and to lay before them his Majesty's instructions to the Commissioners, and also his Majesty's commands, signified by his Secretary of State for the Home Department to me as his Majesty's Lieutenant-Governor, to aid his said Commissioners in the several objects of their missions as far as in my power—matters, if any could be, of serious importance and general concern to the whole Isle; and having summoned therefore the *whole* Council, his Majesty's Attorney-General (having, with regard to aiding the Commissioners in their several inquiries, received orders similar to mine) thought it proper,

* Governor (in-Chief) Smith and Lieutenant-Governor Dawson. (Original note.)

concurred with by the Clerk of the Rolls, to take exception, and protest accordingly against the Lord Bishop, &c., being admitted as members of the Council: But with the concurrence of the Deemster, his Majesty's chief judge, I over-ruled the objection, and admitted those members to their seats. The Attorney-General objected on two several grounds; first, as those members had been so long excluded (viz., from 1777, and in my mind contrary to law and every principle of the British Constitution, as the exclusion was not by any law) they ought not now to be admitted without an order from his Majesty. The exclusion, however, was but by Governor Smith, and, perhaps following his example, Lieutenant-Governor Dawson, my immediate predecessor; and it deserves remark, that by one or other of those gentlemen, it was that every one of the present ecclesiastical members had, at different periods, been sworn in of the Council. I would humbly apprehend, if they ought not to be admitted, they ought not to have been sworn in; that *there* the stop should have been made, and that it has something of singularity in it to swear men into an office, and ever afterwards, without reason given, or crime or misdemeanor alleged against them, to deny them the exercise of the functions of such office. The second ground of objection was, that as those members were in respect of their livings as churchmen of the patronage and (directly or indirectly) appointment of a *subject* (the Duke of Atholl), it was a *subject* who named so many members of his Majesty's Council. But if in this there is any weight, if we can suppose that men of character, independent of that *subject* from the instant they became possessed of their several livings (for in the Isle of Man there is little hope of translation or change from worse livings to better), should still carry their gratitude to the patron so far as at his will and pleasure to injure their country by their acting or obstructing the measures of government, and in these making themselves odious and

detestable to their countrymen ; still it is the constitution of their country, as yet unaltered, by which they possess their seats and voices in its Legislature ; and unalterable, I conceive, in this respect by any power, at least in the Isle of Man, short of the whole Legislature.

For the opinion of the Attorney-General I have a very high respect, and it is not impossible but that in this whole matter I have been wrong ; but if so, I can say, that it has been in the purest wish to do only that which was right, most consonant to the British Constitution, and best for his Majesty's service ; and I trust therefore to be forgiven. It has been indeed impossible for me to conceive that any Governor could or ought to dictate in who should or should not sit as members of the Legislature of a country.* In my own private opinion, I confess I do not see the *necessity* of so great a proportion of his Majesty's Council being ecclesiastic, and possibly it may not at all times be found eligible ; but still the matter ought not to be at the discretion of any Governor, or as he may be advised by any other counsellor ; and at any rate the Commissioners will see it, as I have said, a matter which requires being defined and ascertained in all time to come. The Commissioners will observe, that in respect to the Council of the Isle of Man, there is a part or certain number of it called *the Staff of Government* ; these are (at present, and I believe has been since the Revestment), the Governor (or Lieutenant-Governor), the Deemster (or Deemsters when there have been or may be two), the Attorney-General, and the Clerk of the Rolls ; they are properly the Cabinet, the Council of the Governor in all matters judicial, and chief in the whole executive part of the government. The error, if such it was, has been in consulting those alone, and but them, in any case, and in confining to them the whole legislative power.

* And vide the Governor's Oath of Office. (Original note.)

LAWS,

Consist, as in England, of custom or common law, and of written or statute law. The people appear to me entirely satisfied with their laws as they are, including of course in themselves the power, with the approbation and assent of their most gracious Sovereign, to add, alter, amend, and repeal laws as circumstances may require. It would be tautology to add, that no laws of any kind can pass or have effect contrary or repugnant to the laws of England, or that the Parliament of Britain have not the right to regulate the commerce and the taxes thence arising, or that may arise in the Isle of Man, as a dependency of the Crown. But respecting the laws, I shall only in particular state a circumstance arising in the practice of them, which I conceive to be productive of much evil ; it is the case of appeals to the King in Council from the Courts of the Isle.

APPEALS TO THE KING IN COUNCIL.

Appeals are allowed in causes of value so low as five pounds. This, when under the government of a feudal Lord Proprietor, might have been very well. Appeals to him were little expensive, and produced but little delay ; but now, in both respects, it is much otherwise ; and in fact the privilege of appealing is, but too often, in the hands of the more wealthy and litigious, converted into an engine of oppression, and a means not only of delaying justice, but of evading it altogether : And hence the evil. Out of several that might be, I shall beg leave to state one instance : A poor labouring man, John Tear, was, by a man of some property, and very litigious, his neighbour Standish Christian, accused of theft. Christian first offered to compound the felony for half-a-guinea ; but that being refused with proper disdain, he had the poor man taken up, confined somewhere in the country for some days, and not legally in the form, and then sent up from the north side to the south, and tried criminally before the

Deemster, when, by the verdict of a respectable jury of his country, he was honourably acquitted. On this, Tear, as advised, brought an action at Common Law against Christian for damages, &c., &c., and by verdict of a similar jury recovered some £15 or £16. From this, Christian, merely to obtain delay, and tease the poor man, appealed to the Governor, who, on the appellant's own statement alone, at once dismissed the appeal, with costs, to the entire satisfaction of every person in court, or out of it, and acquainted with the circumstances of the case. Next day, however, Christian demanded an appeal to his Majesty in Council, in the certainty that there the poor man COULD NOT follow him. In fact, be the sum or circumstances of the case what they may, it is entirely in the breast of the person cast in the courts of the Isle, whether any civil action shall terminate in the Isle or not, or indeed whether or not it ever terminate at all in any decision or judgment had upon it.

When an appeal to his Majesty is demanded (in form of a petition) in the order by which it is granted, the Governor stipulates that such appeal be prosecuted according to law, and bonds, with sureties, are given in accordingly in one hundred pounds. But not always is the appellant, if he would, able to prosecute the sureties for expenses, and all are liable but in the amount of their bond (£100); and indeed four times out of five, it may safely be said, there is not at all any intention to prosecute. The appeal, *pro forma*, is, perhaps, lodged in the Council Office (which may be done for four or five pounds), and that is called procedure in, or prosecuting the appeal; but there it rests for ever, and justice for ever evaded, unless, very seldom the case, the respondent is both able and willing on his part to press the matter to a hearing and discussion. To bring an appeal (for five pounds) to a hearing simply, and affirmed or dismissed in default of appearance of the one or other party, costs from £50 to £80

(as I understand) ; so it may easily be judged in what spirit it is such appeals are ordinarily preferred. Lately, in bar of an action of trespass at Common Law against this same Christian (for turning the course of a river upon a neighbour's lands), an appeal to the King in Council in a former suit with the said neighbour about boundaries was pled ; which appeal had then been pending, and unmoved in, for some eighteen years or upwards, and likely so to pend for Christian, to the day of final judgment. I would humbly then beg leave to suggest as some remedy to this evil, and in the hope, for the benefit of society, to damp a little a spirit of litigiousness, but too much prevalent in the Isle of Man, that appeals to his Majesty in Council from the courts of the Isle should not be allowed in causes of value below pounds ; and when granted in causes above that value, that it should be in the power of the Governor, consulting with his Council in such matters (the law officers of the Crown), to stipulate for such appeals being, *bona fide*, prosecuted within a certain time *specified* ; that is, to a hearing ; and to augment the *quantum* of penalty in the bond, so as to cover the probable expenses of the appeal, as well as the sum and costs awarded by the judgment appealed from.

For all particulars respecting the constitution, laws, &c., I would beg leave to refer the Commissioners to much better authority, the Deemster and the Attorney-General of the Isle.

* * * * *

I am, with much Regard,

Sir,

Your most obedient and humble Servant,

ALEX. SHAW.

Castle Rushen, 19th October, 1791.

CHAS. PEACE, Esquire, Secretary to
his Majesty's Commissioners, &c.,
Isle of Man.

A P P E N D I X (B.)

No. 89.

TRANSCRIPT OF A PAPER IN THE HAND-WRITING OF THE
LATE BISHOP WILSON, CONTAINING AN ACCOUNT
OF THE NUMBER OF SOULS IN THE
ISLE OF MAN IN 1726.

	SOULS.
Kirk Michael	643
Ballaugh	806
Jurby	483
Kirk Andreas	967
Kirk Bride	612
Kirk Christ Lezayre	1309
Kirk Maughold	525
Ramsey	460
Kirk Lonnon	547
Kirk Onchan	370
Kirk Braddan	780
Douglas	810
Kirk Marown	
Kirk St. Anne	376
Kirk Malew	890
Castletown	785
Ballysally	360
Kirk Arbory	661
Kirk Christ Rushen	813
Kirk Patrick	745
Kirk German	510
Peeletown	475
Total	<hr/> 13,923

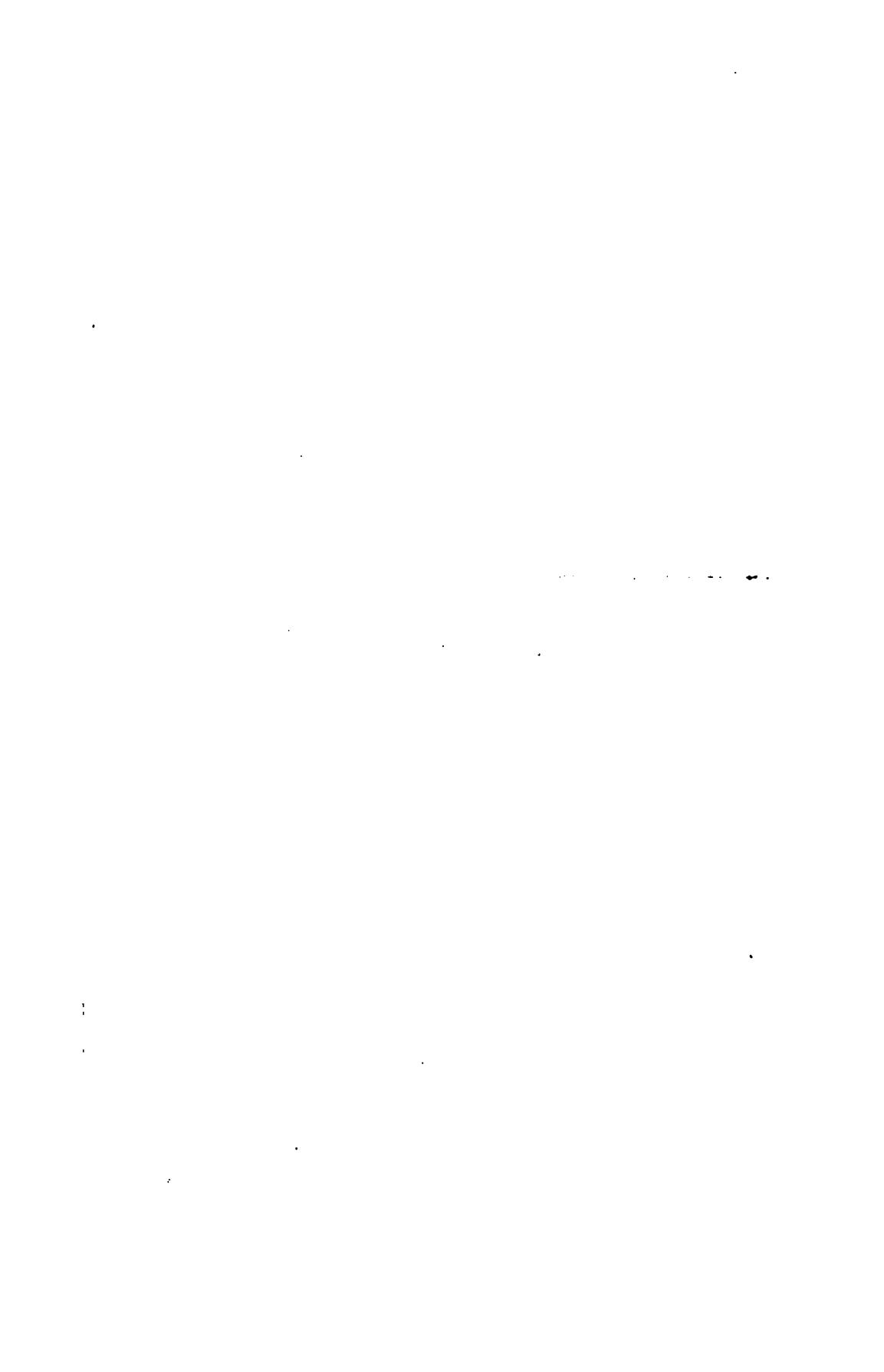
APPENDIX (B.)

No. 90.

AN ACCOUNT OF THE NUMBER OF SOULS IN THE ISLE OF
MAN, AS RETURNED BY THE SEVERAL CLERGY, IN
ANSWER TO THE LORD BISHOP'S TWELFTH
ARTICLE OF VISITATION, ANNO 1757:

	SOULS.
Kirk Patrick	954
Peeletown	805
German	925
Michael	826
Ballaugh	773
Jurby	467
Andreas	1067
Bride	629
Lazayre	1481
Ramsey	882
Maughold	759
Lonon	869
Conchan	484
Douglas	1814
Braddan	1121
Marown	658
Santan	507
Malew	1466
Castletown	915
Arbory	785
Rushen	1007
<hr/>	
Total	19,144

EDITOR'S APPENDIX.



A P P E N D I X (D.)

No. 33.

POPULATION OF THE ISLE OF MAN, 1792.

[In the Duke of ATHOLL's Letter of the 6th of February, 1792.]

Bishop's-Court, Isle of Man, January 2, 1792.

THE present STATE of POPULATION in this Isle,
as carefully taken and reported by the Clergy and
Churchwardens of the different Parishes and Towns,
viz. :—

In the parish of Kirk German and town of Peel	2,505
Kirk Patrick	2,153
Kirk Andreas	1,555
Ballauge.	1,015
Kirk Bride	678
Jurby	713
Kirk Michael	1,003
Lezayre	1,721
Kirk Marown	842
Kirk Malew and Castletown . .	3,333
Kirk Onchan	690
Kirk Braddan and Douglas . .	5,045
Kirk Lonan	1,408
Kirk Maughold and Ramsay . .	2,007
St. Ann	512
Rushen	1,590
Kirk Arbory	1,143
<hr/>	
Total	27,913

EDITOR'S APPENDIX.

The delay which has elapsed since the earlier portion of this work has been struck off enables me to add, as an additional appendix to it, the following most valuable constitutional document, concerning the imperial and insular Legislation affecting the Manx Church, drawn by Sir James Gell, our Attorney-General, who has kindly furnished it to me with liberty to add it to this book.

I accompany it with a copy of the text of the statute 33 Henry VIII., cap. 31, by which the Diocese of Sodor and Man was annexed to the Province of York. This act is not to be found amongst the statutes at large, and the only existing publication of it is, I believe, that contained in "The Works of Bishop Wilson," published in 1781, from which I copy it.

RICHD. SHERWOOD.

November 8, 1882.

MEMORANDUM

*Respecting the Ecclesiastical Courts of the Isle of Man, and
the Legislation in relation to the Church and the Book of
Common Prayer, drawn up for the Commissioners appointed
by Her Majesty's Royal Commission of the 16th May, 1881,
“To inquire into the Constitution and working of the
“Ecclesiastical Courts, as created or modified under the
“Reformation Statutes of the 24th and 25th years of King
“Henry VIII., and any subsequent Acts,”*

BY

SIR JAMES GELL,

ATTORNEY-GENERAL FOR THE ISLAND.

ON A.D. 1399 the Isle of Man was granted by King Sovereignty 1399 to 1708. Henry IV. (who claimed the Island as a conquest), to Henry de Percy, Earl of Northumberland. It was in 1405 seized by the same King on the ground of its forfeiture by the treason of the Earl of Northumberland, and granted to Sir John Stanley for life. In 1406 the latter grant was made absolute to Sir John Stanley, his heirs and assigns, subject to the service of rendering two falcons to the King of England on the day of his coronation. The Island was governed by Kings or Lords of the House of Stanley, until 1595, when a dispute having arisen as to the succession to the sovereignty of the Island, Queen Elizabeth, at the request of the disputants, assumed the government of the

Island, and retained it until her death in 1603. King James I. succeeded to the government of the Isle. In 1607 he granted it to Henry, Earl of Northampton, and Robert, Earl of Salisbury, who surrendered it in 1609, when the King made a new grant to Robert, Earl of Salisbury, and Thomas, Earl of Suffolk. They ruled the Island until 1611, when the dispute to the succession in the House of Stanley having been arranged, the Island was granted to William, sixth Earl of Derby, and (except for about nine years during the Commonwealth, when the Isle was under the rule of Thomas, Lord Fairfax) the Isle continued under the sovereignty of Lords of the House of Stanley until 1736, when it passed by inheritance to James, second Duke of Atholl, who, in 1764, was succeeded by his daughter Charlotte, Baroness Strange, wife of John, third Duke of Atholl. In 1765 the sovereignty of the Island was surrendered to King George III.

During the period from 1399 to 1765 the Insular Kings or Lords, under the grants from the Crown of England, were the sovereigns of the Island, which is an ancient kingdom, and had its own Legislature—*the Tynwald*. In 1716, in the case of *Christian v. Corren*, before a Committee of the Privy Council, it was held that an appeal did lie from the decisions of the Kings or Lords of the Island to the King of England in Council, of which right of appeal the subject could not be deprived by the King's grants.

In 1523 Ann, Countess of Derby, widow of Thomas, second Earl of Derby, and fifth King of Man of the House of Stanley, claimed dower in the Island. The decision was against the Countess, on the ground that the Isle was not part of the realm of England. In this case the judges held that no general Act of Parliament extended to the Island, but that by *special name* an Act might extend to it. This seems to have been the earliest authority for the position that the Isle of Man is bound by Acts of Parliament extending to it by name.

In the reign of Henry VIII., and subsequently, were passed Acts of Parliament affecting the Church and clergy, extending to all *the King's dominions*, but without specially naming any. The Isle of Man was in a very peculiar position with respect to such Acts, by reason of its being under the immediate sovereignty, not of the King of England, but of the Kings or Lords under the grants referred to. Some of such Acts are—

Act of Parliament extending to all the Dominions of the Crown.

- A.D. 1532-3.—24 Henry VIII., c. 12 : “An Act that the
 “Appeals in such cases as have been used to
 “be pursued to the See of Rome, shall not
 “be from henceforth had nor used, but within
 “this Realm.”
- A.D. 1533-4.—25 Henry VIII., c. 19 : “An Act for the sub-
 “mission [of] the Clergy to the King’s
 “Majesty.”
- A.D. 1533-4.—25 Henry VIII., c. 20 : “An Act restraining
 “the payment of Annates.”
- A.D. 1533-4.—25 Henry VIII., c. 21 : “An Act concerning
 “the exoneration of the King’s subjects from
 “Exactions and Impositions heretofore paid
 “to the See of Rome; and for having
 “Licences and Dispensations within this
 “Realm, without suing further for the
 “same.”
- A.D. 1533-4.—25 Henry VIII., c. 22 : “An Act declaring
 “the Establishment of the King’s Most
 “Royal Majesty in the Imperial Crown of
 “this Realm.” [This Act declares the pro-
 “hibited degrees of marriage.]
- A.D. 1534.—26 Henry VIII., c. 3 : “An Act concerning the
 “payment of First-fruits of all Dignities,
 “Benefices, and Promotions spiritual; and

"also concerning one annual Pension of the
"tenth part of all the possessions of the
"Church, spiritual and temporal; granted to
"the King's Highness and his Heirs."

A.D. 1536.—28 Henry VIII., c. 11: "An Act for Restitution
"of First Fruits in time of vacation to the
"next Incumbent."

A.D. 1536.—28 Henry VIII., c. 16: "An Act for the release
"of such as have obtained pretended Licences
"and Dispensations from the See of Rome."

A.D. 1548.—2 & 3 Edward VI., c. 1.: "An Act for the Uni-
"formity of Service and Administration of
"the Sacraments throughout the Realm."
[1st Act of Uniformity.]

A.D. 1552.—5 & 6 Edward VI., c. 1: "An Act for the Uni-
"formity of Common Prayer and Admini-
"stration of the Sacraments." [2nd Act of
Uniformity.]

A.D. 1554.—1 & 2 Philip and Mary, c. 8: "An Act repealing
"all the Statutes, Articles, and Provisions
"made against the See Apostolick of Rome
"since the twentieth year of King Henry
"the Eighth; and also for the establishment
"of all Spiritual and Ecclesiastical Posse-
"sions and Hereditaments conveyed to the
"Laity."

A.D. 1558.—1 Elizabeth, c. 1: "An Act restoring to the
"Crown the Ancient Jurisdiction over the
"State Ecclesiastical and Spiritual, and
"abolishing all Foreign Power repugnant to
"the same."

A.D. 1558.—1 Elizabeth, c. 2: "An Act for the Uniformity
"of Common Prayer and Divine Service in

"the Church, and the Administration of the
"Sacraments." [3rd Act of Uniformity.]

A.D. 1558.—1 Elizabeth, c. 4 : "An Act for the restitution of
"the First Fruits and Tents, and Rents re-
"served *nomine decimæ*, and of Parsonages
"improper, to the Imperial Crown of this
"Realm."

A.D. 1558.—1 Elizabeth, c. 19 : "An Act giving authority to
"the Queen's Majesty, upon the avoidance
"of any Archbischoprick or Bishoprick, to
"take into her hands certain of the Temporal
"Possessions thereof, recompensing the same
"with Parsonages improper and Tents."

A.D. 1562.—5 Elizabeth, c. 1 : "An Act for the Assurance of
"the Queen's Majesty's Royal Power on all
"Estates and Subjects within Her Highness's
"Dominions."

A.D. 1570.—13 Elizabeth, c. 2 : "An Act against the bring-
"ing in and putting in execution of Bulls
"and other Instruments from the See of
"Rome."

A.D. 1570.—13 Elizabeth, c. 12 : "An Act to reform cer-
"tain Disorders touching Ministers of the
"Church."

[NOTE.—All the foregoing Acts were passed during
the reign in the Isle of Man of Edward, third Earl of
Derby, sixth Lord of Man of the House of Stanley.]

Many of the provisions in these Acts were inapplicable to
the Isle of Man. First fruits and tenths are not payable in
respect of livings there. At the same time, it is presumed
the Reformation was brought about in the Island by means of
the recognition of some of the Acts ; for there are no Acts of
the Insular Legislature bearing on the Reformation.

The
Church as
established
in the Isle.

The Church is "established" in the Isle of Man as in England; but if there can be implied from the relative positions of the Church and State in the Island the terms or compact on which the Establishment was effected, such terms, as to the Ecclesiastical Courts, differ from those in England. The Bishop, Archdeacon, Vicars-General, Official and Registrar of such courts must, on appointment, take their respective oaths of office before the temporal authorities. The Sumner-General, the apparitor of the courts, is appointed by the Crown, through the Governor; but he takes the oath of office before a Judge of the Ecclesiastical Court. There may be two Vicars-General, who have concurrent jurisdiction, and they may act jointly or separately. The Bishop, Archdeacon, and Vicars-General are *ex officio* members of the Insular Council, which acts in a double capacity, it being the Upper House of the Insular Legislature and also the Privy or Executive Council of the Sovereign and Governor. The Archdeacon's Official may be summoned to the Council in its executive capacity only. On a vacancy occurring in the See, the Vicars-General, Registrars, and Surrogates (who act in the issuing of marriage licences only) are appointed by the Governor, on behalf of the Crown, to act during the vacancy in the see.

Procedure. Obedience to the citations, orders, and judgments of the Ecclesiastical Courts is enforced by the authority of the Governor. The service of citations, &c., is made by the Sumner-General or one of his parochial deputies, who are styled "Sumners," and the fact of service is certified to the Court by such officer. If a defendant or witness cited to appear at the Court do not appear, the Judge endorses the certificate with a memorandum to the effect that the person, for his contempt in not appearing, is "presented." In like manner, an order or judgment of the Court is served by the same officer; and if the officer can, of his own knowledge, certify the fact of disobedience he does so, and the Judge

endorses the certificate as in the case of contempt for non-appearance. The Sumner's certificate, with the Judge's "presentment" endorsed, is filed in the Rolls Office, where the records of the temporal courts are kept, and the Governor issues a "writ of contempt," which is enforced by a constable, who, in the case of a writ of contempt for non-appearance, either imprisons the presented person or takes him personally before the Court to which he had been cited, and, in the case of a writ of contempt for disobedience to an order or judgment, imprisons the person presented. In cases where the Sumner cannot certify the contempt, the matter of the alleged contempt is, at the instance of the plaintiff, inquired into in Court; and if the Court finds the contempt to have been committed, the judge makes a presentment of it, and a writ of contempt issues. Before 1765, soldiers performed the civil duties now performed by constables, and enforced the writs of contempt. Formerly, under general orders of the Governor, a soldier was authorized to take the person presented into custody without a special writ being issued in each case; but the custom of arresting under a general order has been long discontinued. The Ecclesiastical Court has no control over the imprisonment of a person in custody under a writ of contempt: such person can be discharged only by the Governor, on terms prescribed by him, the terms being usually such as will ensure obedience. It may be observed that, except as to the officer by whom service is made, the like course of procedure is followed in the temporal Courts.

The law as to lapse is, that in case the Bishop have the ~~Lapse~~ right to present to an incumbency, and he do not present within six months from the Easter next following the avoidance, the right of presentation falls to the Crown, not to the Archbishop; and where a benefice in the Bishop's patronage falls vacant during a vacancy in the see, the right of presentation falls to the Crown.

ppeals.

Previously to A.D. 1637, it was considered to be the law of the Isle that all appeals from the Ecclesiastical Courts lay, not to the Archbishop, but to the Lord or Sovereign of the Isle, or to the temporal Courts of Appeal. Some time after the passing of the Act of Parliament 33 Henry VIII., c. 31 (1542)—“An Act dissevering the Bishoprick of Chester, “and of the Isle of Man from the Jurisdiction of Canterbury to the Jurisdiction of York”—it was considered

* NOTE.—The following is the text of this Act:—

An Act, dissevering the Bishoprick of Chester, and of the Isle of Man, from the Jurisdiction of Canterbury, to the Jurisdiction of York. Cap. xxxi.

Whereas the King's Highness, of his most gracious goodness, as well for the advancement of Christ's religion, as for the better instruction of his subjects in the laws of God, hath, by his Letters Patent, bearing date the sixteenth day of July, in the thirty-third year of his noble reign, erected, founded, and established, in the late monastery of St. Werberge, in his city of Chester, a Cathedral Church, or Bishop's See; willing the same to be named and called the Bishoprick, or Bishop's See of Chester; and to the same hath appointed limits and bounds of one perfect and entire Diocese, ordained, and willing the same to be named and called the Diocese of Chester. And amongst other things, h^th appropriated, united, and annexed, to the said Diocese of Chester, that Archdeaconry of Richmond, and all the jurisdictions thereof, which Archdeaconry was late parcel of the Diocese of York; and, moreover, hath the same whole and entire Diocese of Chester, with all the limits and bounds, and all things, annexed, appropriated, and united, to the same, decreed, ordained, and established, to be of the Province of the Archbishop of Canterbury, and under the jurisdiction metropolitical of the same, as in the same Letters Patent doth more largely appear. Forasmuch, as his said Highness graciously considereth, that the said Archbishop of Canterbury hath a sufficient number of Dioceses and Suffragans under him, and in his province, and that the Archbishop of York hath, within the realm of England, only two Suffragans: And, moreover, that if the said Diocese should remain under the said Archbishop of Canterbury, that then, all his Highnesses subjects of all that Diocese of Chester, and *so of the Archdeaconry of Richmond, should be constrained for appeals to resort to the audience of Canterbury;* which thing, to many of the said Diocese, and specially to them of the Archdeaconry of Richmond, should be, by reason of long journey of almost three hundred miles from some places thereof, intolerable fatigation, and insupportable charges. And, therefore tenderly, like most gracious Prince, studying and caring for his said subjects, most commodity, quietness, and ease, and, upon fur:her deliberation, hath, with the advice of his most honourable Council, determined and ordained to remove, and dissever, the said Bishoprick and Diocese of Chester, from the said province, and Archbischoprick of Canterbury, and to unite and annex the same to the province and Archbischoprick of York, as a Diocese, Member, and Bishoprick of the same.

Be it therefore ordained, enacted, and established, by the King's Highness, and by the consent of the Lords spiritual and temporal, and the Commons in this present Parliament assembled, and by the authority of the same, that the said whole and entire Diocese, or Bishoprick of Chester, and every parcel and memer thereof, be from henceforth united and annexed to the Province and Archbischoprick of York, as a Diocese and Bishoprick of the same; and that from henceforth the said Diocese of Chester, and *every parcel thereof, exempt as well as not exempt,* be, and be

by some that, whatever may have been the law with respect to appeals prior to 1542, the effect of the Act of Parliament was to vest in the Archbishop the like right and power as to appeals which he had with respect to the diocese of Chester under the Act. By the Act it is enacted that the diocese of Chester shall be "of the Province and Archbischoprick of York, " and of the metropolitical jurisdiction of the same, to every "effect and purpose, according to the ecclesiastical laws in

taken, named, and reputed to be, of the Province and Archbischoprick of York, and of the metropolitical jurisdiction of the same, to every effect and purpose, according to the ecclesiastical laws in this realm; and that the Bishop of the same, that now is, and all other his successors, shall be Suffragans to the Archbischop of York, that now is, and his successors, and to the same shall owe their obedience, and be under the jurisdiction metropolitical of the same, as well they as the Dean and Chapter of Chester, and all the Archdeacons, and the whole Clergy, and all other the King's subjects, being within the limits and bounds of the said Diocese; any thing comprised in the said Letters Patent of the erection of the said Diocese and Bi-hoprick of Chester, notwithstanding. And from henceforward, neither the said Bishop of Chester, neither the Clergy, nor any other the King's subjects, being of the said Diocese of Chester, shall recognize the Archbischop of Canterbury as their Metropolitan, but only the Archbischop of York, and his successors, and the same shall obey in all things, according to the laws, as well temporal as ecclesiastical, in this realm.

Be it also further enacted and established by the King's Highness, with the assent of the Lord's spiritual and temporal, and the Commons in this present Parliament assembled, and by the authority of the same, that the Bishoprick and Diocese of Man, in the Isle of Man, be also annexed, adjoined, and united to the said Province, and metropolitical jurisdiction of York, in all points, and to all purposes and effects, as the said Bishoprick of Chester is annexed, adjoined, and united to the same.

Provided always, and be it enacted by our Sovereign Lord the King, with the assent of the Lords spiritual and temporal, and the Commons in this present Parliament assembled, and by authority of the same, that this Act be not prejudicial to the Archbischop of Canterbury now being, nor to his successors, nor to the Dean and Chapter of the same, nor to any other Bishop or Chapter of this realm; but that all places, lands, promotions, possessions, as well spiritual as temporal, being and lying without the bounds and limits of the Archdeaconries of Richmond and Chester, and without the bounds and limits of the city of Chester, and the county of the same, and the counties of Lancaster and Chester, or any of thean, shall be still of the province of Canterbury, and of such Diocese and Dioceses as they were of before the erection of the Bishoprick of Chester, and of the jurisdiction of the same, and not of the province of York, nor shall be accounted to be any parcel of the said Diocese of Chester; any thing in this present act, or in the book of erection of the said Bishoprick of Chester, notwithstanding.

Saving to the Bishop of Chester, and his successors, that his house at Weston, being within the Diocese of Coventry and Lichfield, shall be accounted and taken to be of his Diocese, and that he being resident in the same, shall be taken and accounted as resident in his own Diocese; and for the time of his abode there, shall have jurisdiction in the same, likewise, as all other Bishops have in the houses belonging to their Sees, wheresoever they lie, in any other Bishoprick within this realm, for the time of their abode in the same. Any thing in this present act, and provision to the contrary thereof, in anywise notwithstanding.

"this realm," and that the Bishoprick and diocese of Man, in the Isle of Man, be "also annexed, adjoined, and united to the said Province and Metropolitan jurisdiction of York in all points, and to all purposes and effects, as the said Bishoprick of Chester is annexed, adjoined, and united to the same." By others it was contended that the Act did not effect any change in the law of the Isle as to Ecclesiastical Courts. However, by order of James, Lord Strange, Lord of the Island, dated 22nd November, 1636, he directed that, until further order, no appeal should thereafter be made to the Governor of the Isle or the temporal Court there "for any cause depending or determined in the Ecclesiastical Courts which do merely concern government of the Church, excommunications, suspensions, incest, adultery, fornication, profanation of God's name, profanation of the Sabbath, cursing, probate of wills and testaments, granting of administration, granting tuition of infants' goods, or merely subtracting tithes, or for or concerning the defamations determinable or punishable by the ecclesiastical laws." It is to be remarked that the order does not affirm the jurisdiction of York in matters of appeal, nor direct that appeals should not be made to the Lord himself: it professes merely to take away, in certain cases, the right of appeal to jurisdictions inferior to the Lord. However, though it was sometimes asserted by Manx jurists, including Judges of the Ecclesiastical Courts, that the order was of no legal validity, in course of time appeals to York in relation to the subjects referred to in the order were acknowledged, the appeals in other matters being to the Staff of Government, the Insular Court of Appeal.

Grants of Probate and Letters of Administration were governed by the Insular law, and though the Archbishop's Provincial Court exercised Appellate Jurisdiction, a Provincial Grant of Probate or Administration was of no validity in the

Island. Since the transfer of the Probate Jurisdiction in England from the Ecclesiastical Courts to the Court of Probate, there have been no appeals in testamentary cases in the Island. It is doubtful whether the Appellate Jurisdiction of the Archbishop's Court in Manx testamentary causes has been affected by the Act which transferred the English jurisdiction in testamentary cases.

Prior to A.D. 1737, whenever a person was excommunicated ^{Excommunication.} by the Ecclesiastical Court, he was, by the Court, "delivered over, body and goods," to the Lord of the Isle. By an Insular Act of that year, such practice was abolished, and it was enacted that a person excommunicated continuing obstinate for three months should, upon application to the Governor by the Court, be confined three months in prison, but such imprisonment was not to be understood as taking off the censure.

Formerly the Court of the Archdeacon of the Isle of Man ^{Arch-deacon's Court.} exercised Ecclesiastical Jurisdiction in certain matters—the judge of the Court being the Archdeacon's Official. By an Act of the Insular Legislature, passed in 1874, "the voluntary and contentious jurisdiction and authority of the Court of the Archdeacon of the said Isle, and of the Archdeacon and his Official, with reference to the grant or revocation of probate of wills or letters of administration of the effects of deceased persons, and in relation to any matters or causes testamentary, and also with reference to all suits or matters relating to the estates of deceased persons, and to all other matters of judicial cognizance, ecclesiastical or otherwise, and whether conferred by statute or otherwise" should cease, and all such jurisdiction and authority were transferred to the Ecclesiastical Courts of the Bishop of Sodor and Man, to be exercised by such Courts, or by the Bishop or his Vicar-General.

*Book of
Common
Prayer.*

With reference to the Book of Common Prayer the law in the Isle of Man is in a very extraordinary and unsatisfactory position. There seems to be no doubt that from the Reformation the Book of Common Prayer, for the time being in use in England, or a Manx translation of it, has been, with some slight variations, in use there. Assuming that the Isle of Man is sufficiently designated, as it were by special name, by an Act of Parliament which is declared to extend to all the dominions of the Crown of England, the several Acts of Uniformity of 1548, 1552, and 1558 were obligatory in the Isle of Man, but the Act of Uniformity to 14 Charles II., c. 4 (1662), does not extend to that Isle, even by implication, for it declares that it shall apply to the realm of England, dominion of Wales, and town of Berwick-on-Tweed. So then, so far as legislation is concerned, the Book of Common Prayer directed to be used by the Act of Uniformity of Queen Elizabeth—the Act of 1558—is, if such Act be unrepealed, that only which can be legally used in the Isle of Man.

I may observe that, notwithstanding the Act of Elizabeth being applicable to all the Queen's dominions, which included Ireland, the Parliament of Ireland passed an Act—2 Elizabeth, c. 2 (1559)—for uniformity in the public services in the Church. The Act is similar to that passed in England. The same Parliament passed another Act of Uniformity in the reign of Charles II.—17 & 18 Charles II., c. 6 (1660)—but, as with respect to the Isle of Man, the English Act of Charles II. (1662) did not extend to Ireland. However, if the English Act of Elizabeth was in force in Ireland, it was questionable how far the Irish Act of Elizabeth was valid.

*English
legislation
as to Prayer
Book since
1662*

Since 1662 reference has been made to the Book of Common Prayer in various Acts of Parliament professing to extend to the Isle of Man. For instance:—

- (1) *The Calendar Act*—24 George II., c. 23 (1750-1).—
By this Act the new computation was to take

effect "throughout all His Majesty's dominions in Europe, Asia, Africa, and America, belonging or subject to the Crown of Great Britain." By section 3 it is enacted that the feast of Easter, and any of the moveable feasts be no longer kept or observed according to the supputation then used, or the table prefixed to the Book of Common Prayer, but should be kept and observed according to the new calendar in England, "and in all the dominions and countries aforesaid wherein the Liturgy of the Church of England now is or hereafter shall be used." In a schedule are the new Calendar, Tables, Rules, &c. (In the Isle of Man the Legislature, in 1753, passed an Act for regulating the commencement of the year, and for establishing the New Calendar then used in England. This Act contained many provisions similar to those in the English Act, but it included some which had reference solely to local matters which would be affected by the change. Amongst the provisions is one relating to the Book of Common Prayer, to which reference is made hereafter.) In 1782 the Irish Parliament passed the Act 22 George III., c. 48, which repealed the Calendar and Tables in the Book of Common Prayer, and enacted that all statutes made in England or Great Britain, as concerned the style or calendar should be accepted, used, and executed in Ireland.

- (2) *The Public Notices Act*—7 Wm. IV. & 1 Vic., c. 45 (1837)—prohibits the publication of certain notices in or at the Church, but it provides that the prohibition shall not extend to notices by the curate, in pursuance of the rules of the Book of Common Prayer, &c. (By Act of Parliament 33 & 34 Vic., c. 51 [1870], the Act of 1837 was repealed as to

the Isle of Man, and declared never to have applied to or been enforced in the Isle.)

- (3) *Act as to Subscriptions and Oaths of Clergy*—28 & 29 Vic., c. 122 (1865).—By this Act the clergy are required to declare their assent to the Book of Common Prayer :—“I will use the form in the said “book prescribed, and none other, except so far as “shall be ordered by lawful authority.” (Although the Book of Common Prayer referred to in this Act is meant to be that of 1662, yet the declaration of assent is not inapplicable to Queen Elizabeth’s Prayer Book of 1558, if that be the book in use by lawful authority in the Isle of Man, the title of the book, as used in the Act, being applicable equally to each of the books of 1559 and 1662.)
- (4) *Public Worship Regulation Act*—37 & 38 Vic., c. 85 (1874).—This Act directs how proceedings are to be taken in cases of failure to observe the rules or directions of the Book of Common Prayer, or in case of the use of additions thereto. (In this Act the Book of Common Prayer referred to is declared to be “The Book of Common Prayer, and Adminis-“tration of the Sacraments, and other Rites and “Ceremonies of the Church according to the use of “the Church of England ; together with the Psalter “or Psalms of David, pointed as they are to be said “or sung in churches, and the form or manner of “making, ordaining, and consecrating of Bishops, “Priests, and Deacons, together with such altera-“tions as have, from time to time, been or may “hereafter be made in the said book by lawful “authority.” The title of the book here given is that of the Prayer Book of 1662 only. The title of the Prayer Book of 1558 is: “The Book of Common

"Prayer and Administration of the Sacraments, and "other Rites and Ceremonies of the Church of "England." If, therefore, there be no legal obligation in the Isle of Man to use the Book of 1662, then, although the Act of 1874 extends to the Island, the operation of it there may be a nullity, as proceedings under it can be only as to the Prayer Book of 1662.)

The Act 34 & 35 Vic., c. 37 (1871), directing the use of a New Table of Lessons, and the Act 35 & 36 Vic., c. 35 (1872), permitting the use of shortened services, do not extend to the Isle of Man.

Since 1662 reference to and provision affecting the Book of Common Prayer have also been made in Acts of the Insular Legislature. The following are instances :—

- (1) *The Calendar Act* of 1753, previously referred to. This Act contains a provision similar to that in the English Act of 1750-1, that the feast of Easter, and any of the moveable feasts thereon depending, shall not be kept or observed in the Isle according to the method of supputation formerly used, or the Table prefixed to the Book of Common Prayer, and that such Table and the column of Golden Numbers, as they are prefixed to the respective days of the month in the said Calendar, shall be disused, and that the new Calendar, Tables, and Rules established in England shall be preferred and used in the room and stead thereof. Also that the fixed Feast days, Holy days, and Fast days, which were formerly kept and observed by the Church in the Island, and also the several solemn days of Thanksgiving and of Fasting and Humiliation, which are from time to time to be kept and observed, shall be kept and observed on the

respective days marked for the celebration of the same in the said new Calendar.

- (2) *The Marriage Act of 1757.*—As to Banns it is by the Act directed that they be published “according to “the form of words prescribed by the Rubrick pre-“fixed to the Office of Matrimony in the Book of “Common Prayer, upon three several Sundays (in “which particular the Parliament of Great Britain “have, in like manner, thought proper to alter the “Rubrick), preceding the solemnization of marriage, “during the time of morning service, or of evening “service if there be no morning service in such “church, upon any of those Sundays, immediately “after the second lesson.” Provision is made where the parties to be married dwell in divers parishes, that the publication be in each parish, and “that all “other rules prescribed by the said rubrick concern-“ing the publication of banns and the solemnization “of matrimony, and not altered as aforesaid, be “observed.” The Act also contains provisions as to the issue of marriage licences. (By the Common Law of the Island the Bishop can appoint surrogates to issue licences of marriage, and the Bishop can himself grant special licences for marriage at any time or place.) The rubrick as to banns in the Prayer Book of 1558 is :—“First, the banns must “be asked three several Sundays, or holy days, in “the time of service, the people being present, after “the accustomed manner”; and in the Prayer Book of 1662 :—“First, the banns of all that are to be “married together must be published in the church “three several Sundays, or holy-days, in the time of “Divine Service, immediately before the sentences “for the offertory, the curate saying after the

"accustomed manner,—I publish," &c. (There is in this Act a clear recognition of the use in the church in the Isle of Man of the Book of Common Prayer, and no doubt the book then in use was that of 1662. As such Prayer Book was not used by Legislative authority, it was competent to the Insular Legislature to make the enactments contained in the Marriage Act, so far as regarded that book. But if the Act of Uniformity of Elizabeth was in force in the Island, the power of the Insular Legislature to make any enactment affecting the Book of Common Prayer of 1558, the use of which was prescribed by that Act, is open to question. And, further, it might also be a question how far the Insular Legislature could legislate at all on the subject of the solemnization of marriage, or whether marriages could legally take place otherwise than after publication of banns subsequently to the passing of the first Act of Uniformity of 1549, the Prayer Book of that year being virtually part of the Act. The English Marriage Acts do not extend to the Isle of Man.)

- (3) *The Marriage Act of 1849.*—This Act repeals the Act of 1757, and makes other provisions with respect to marriages; but it contains a like enactment as to the publication of the banns and the rubrick prefixed to the Office of Matrimony in the Book of Common Prayer to that contained in the Act of 1757. (My remarks as to that Act apply to this.)
- (4) *The Dissenters' Marriage Act of 1849.*—By this Act provision is made for the marriage of persons who object to and decline the offices of the Established Church in a Registrar's office or in places of worship specially licensed. Under certain circumstances,

marriages celebrated after the passing of the Act of 1757 by Roman Catholic priests and Presbyterian and other Protestant Dissenting ministers or teachers were declared valid.

- (5) *The Public Notices Act, 1872.*—By this Act no proclamations or notices under any law, statute, or custom are thereafter to be made or given in, or at or near the doors of, churches ; and no decree relating to a faculty, nor any other decree, citation, or proceeding in the Ecclesiastical Court, is to be read or published in any church or chapel during or immediately after divine service. There is a proviso that nothing in the Act shall extend to the publication of banns of marriage ; nor to notices of the celebration of divine service, or of sermons, or of special applications of the offertory, or of meetings for religious purposes ; nor to restrain the curate, in pursuance of the rules of the Book of Common Prayer, from declaring unto the people what holy days or fasting days are in the week following to be observed ; nor to restrain the minister from proclaiming or publishing what is prescribed by the rules of the Book of Common Prayer, or enjoined by Her Majesty or her successors, or by the Governor of the Island, or by the Ordinary. (It will be observed that this proviso gives a liberty of publication in church much greater than that given in the rubric in the Communion Service, whether in the Prayer Book of 1558 or that of 1662.)
- (6) *Bishop Barrow's Charity Act, 1875.*—By this Act provision is made for the erecting a new chapel for King William's College. The Bishop is authorized to license a clergyman of the Church of England to serve the chapel, and administer therein the sacrament

of the Lord's Supper, and perform such other offices and services of the Church of England, except the solemnization of marriages, as the Bishop might include in the licence. The offertory and alms collected at the chapel are to be disposed of for charitable purposes, as the minister thereof shall determine. (The provision as to the offertory differs from that in the rubric in the Communion Service in the Prayer Book of 1662. The Act of Parliament—"The Private Chapels Act," 34 & 35 Vic., c. 66 (1871)—does not extend to the Isle of Man.)

- (7) *The Burials Act, 1881.*—Under this Act, the burial service according to the rites of the Church of England may, after thirty-six hours' notice to the incumbent, be dispensed with; and a burial may take place in any burial ground in which the parishioners or inhabitants of a parish or ecclesiastical district have rights of burial, either without any religious service, or with such Christian and orderly service at the grave as the person having charge of the funeral shall think fit. The Act relieves a minister in holy orders of the Church of England from any censure or penalty for officiating with the service for the burial of the dead in any unconsecrated burial ground or building thereon, and authorizes any such minister, in any case where the office for the burial of the dead according to the rites of the Church of England may not be used, and in any other case at request of the person having charge of or being responsible for the burial, to use at the burial such service, consisting of prayers taken from the Book of Common Prayer and portions of holy scripture as may be prescribed or approved of by the Ordinary, without being subject to any ecclesiastical or other

censure or penalty. (The provisions as to burials in this Act are very nearly identical with those in the English Burials Act, 43 & 44 Vic., c. 41 (1880), which does not extend to the Isle of Man. As in the case of the Marriage Act, it might be open to question, if the Act of Uniformity of Elizabeth be in force in the Island, how far the Insular Legislature could enact provisions inconsistent with the Prayer Book of 1558 established by such Act.)

York Convocation and Canons. Under the Act 33 Henry VIII., c. 31 (1542), before referred to, the Bishopric of Man was made part of the province of York. Such Bishopric is represented in the Convocation of York by the Bishop, the Archdeacon, and one Proctor elected by the clergy. The canons passed by the Convocation are binding on the clergy in the Isle of Man to the same extent as they are on the clergy within the English dioceses of the province; and it might possibly be contended that if none of the English Acts of Uniformity apply to the Island, the canons of 1604 (which are said to have been adopted by the York Convocation, and which include canons relating to divine service and the use of the Book of Common Prayer) are in force there. If so, it is not clear to what Book of Common Prayer the canon would legally apply as regards the Isle of Man. The canons seem to have been made after the proclamation of King James I. (5th March, 1604), by which the use of a Book of Common Prayer somewhat altered from that of Elizabeth, or rather the Prayer Book of Elizabeth with "explanations," was ordered to be used. However, if the Book of Common Prayer rested on the authority of the canons only, the power of the Insular Legislature to legislate, as it has done, with reference to divine service is unaffected.

Use of Manx translation of Prayer Book. If the Act of Uniformity of Elizabeth were in force in the Isle of Man, it is doubtful whether divine service could

be legally conducted there except according to the Book of Common Prayer in the English language. Yet, the fact is that previously to 1765 Manx written translations of the Book of Common Prayer were in general use throughout the Island. By the great bulk of the population, particularly outside the towns, the English language was very little understood, and the use of the Manx language in divine service was a necessity. In 1765 was issued a printed edition of the Book of Common Prayer, translated into Manx for the use of the diocese of Man under the direction of Dr. Mark Hildesley, Bishop of Sodor and Man ; and such translation is that which has ever since continued in use, though by reason of the widespread knowledge of the English tongue, particularly within the last thirty years, the occasions for its use are now rare. The translation is of the Prayer Book of 1662, thus showing that such book had superseded that of Elizabeth, and also of James I., if ever used. (It contains special petitions amongst the State prayers for the Lord and Lady and the Government of the Isle, and it omits the prayer for the High Court of Parliament, which was evidently not used, as the Island has its own Legislature.)

The Bishop and clergy of Man assembled in synod or convocation have on several occasions made canons applicable to the Church in the Island. In the year 1703-4, during the episcopate of Dr. Thomas Wilson, a code of canons was adopted by the Convocation, but, as they comprised matters affecting the laity, they were submitted for approval to the Insular Legislature, and they were approved and passed as an Act of Tynwald. By one of such canons it is thus provided : —“ For the better government of the Church of Christ, for “the making of such orders and constitutions as shall from “time to time be found wanting, and that better inquiry may “be made into the execution of those that are in force, there “shall be (God willing) a convocation of the whole clergy of

Insular
Convocation
and Canons.

"the diocese on Thursday in Whitsun week every year after "this, at the Bishop's chapel, if his Lordship be within this "Isle, or as soon as conveniently after his return. At the Convocation held on the 16th of May, 1706, a special form of service for receiving penitents to be used in churches and chapels, prepared by the Bishop, was adopted and the use of it enjoined.

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It has been usual in the Island for the Governor by proclamation to appoint days of fasting, humiliation, and thanksgiving, as is done in England by authority of the Sovereign; and the Bishop has, on such occasions, been directed to prepare forms of prayer to be used. But the Bishops have frequently on their own authority directed the use of special forms of prayer or service. It has evidently been considered that the Island is not bound by the Acts of Uniformity, and that the Bishop by his episcopal authority has power to give directions with respect to public worship. Bishop Wilson frequently directed the use of special forms. On June 18th, 1705, he made the following order:—"It is hereby ordered "(by the approbation of the Civil Government) that in the "public services of the Church this petition be inserted in the "Litany, in the place and manner following, and constantly "used in all the churches within this Isle, viz.: 'That it may "please Thee to give and preserve to our use the kindly fruits "of the earth, and to restore and continue to us the blessings "of the seas, so as in due time we may enjoy them.'"
That order is obeyed until this day, and in the Manx translation of the Prayer Book, the petition in the Litany is that altered as above by Bishop Wilson. Keble, in his life of Bishop Wilson, says (p. 233): "Perhaps the Act of Uniformity, not mentioning in the body of it the Isle of Man, had not been so accepted there as to take away from the Bishop the common prerogative of his order, to regulate (within certain limits) "the details of divine service in his own diocese"; and

(p. 831), "He used without scruple his episcopal liberty in "such matters, warranted, I suppose, by the omission of the "name of the Island in the Act of Uniformity." Bishop Wilson prepared "A Form of Consecrating Churches and "Chapels, and Churchyards and Places of Burial," which is in use to the present time; and he directed the use of a form of prayer (drawn up by himself) "by the clergy of the "diocese of Man, who, according to a laudable custom, are "bound to attend the boats during the herring fishing." This form has fallen into disuse, but it was used long after the Bishop's episcopate.

It has been an old custom within the Isle to use proper lessons on Ash Wednesday, and at the meetings of the Tynwald Court, when assembled to promulgate new laws. There were no proper lessons for Ash Wednesday in England before 1871.

There is one view of the Acts of Uniformity in regard to the Isle of Man which perhaps has been considered before, namely, that the second and each subsequent Act of Uniformity repealed, though not in express words, the provisions of the previous Act so far as it directed the use of a particular Book of Common Prayer; and therefore that the Act of Uniformity of Charles II. repealed the provisions of the Act of Elizabeth as to the use of the Prayer Book then established, not only within England, but generally throughout all the dominions of the Crown, though the use of the new Book of Common Prayer was enjoined throughout England and Wales only. There was much reason for the limitation as to the use by the last Act of Uniformity, as the provisions of a general Act of this kind were not really applicable to the extending dominions of the Crown where there was no Established Church; and it certainly could not have been the intention of Parliament in 1662 to enjoin the use of a new Prayer Book

Question as
to Act of
Uniformity
of Elizabeth
being
absolutely
repealed as
to Prayer
Book
mentioned
in it.

in England and continue in use in other parts of the King's dominions the Prayer Book of Elizabeth. If this be the correct view of the Act of 1662, then all the action of the Insular Legislature and of the Bishops of Sodor and Man with reference to the Book of Common Prayer and the conduct of divine worship were within their respective powers, and were regular and duly authorized.

Acts of Parliament relating to Church and Clergy not extending to the Isle of Man.

The Act of Parliament 3 & 4 Vic., c. 86 (1840)—“The Clergy Discipline Act”—does not extend to the Isle of Man. The procedure in the Insular Ecclesiastical Courts is that which has existed from ancient times, but with a few statutable modifications. Occasionally the Bishops have acted in the spirit of the English Clergy Discipline Act by referring matters of complaint against clergy to persons acting as Commissioners; but this has been done only where the accused clergyman voluntarily submitted to the reference.

Very many of the Acts of Parliament which affect the church and clergy do not apply to the Isle of Man. The Church Building Acts and those relating to the Ecclesiastical Commissioners are, as to the Island, in much confusion, by reason of some being made to extend to the Island, and others not so extending. Amongst the Acts relating to the clergy, which are not applicable to the Island, are—

- (1) 1 & 2 Vic., c. 106 (1838).—An Act to abridge the holding of benefices in plurality, and to make better provision for the residence of the clergy.
- (2) 4 & 5 Vic., c. 14 (1841).—An Act to make good contracts made or which may be entered into by banking and other corporations which may include clergy.
- (3) 27 & 28 Vic., c. 94 (1864).—This Act contains restrictions as to persons ordained by Scotch Bishops being admitted to benefices, or officiating in England or Ireland.

(4) 33 & 34 Vic., c. 91 (1870)—The Clerical Disabilities Act.—By this Act a clergyman may relinquish his status.

I may observe that the Insular Legislature have passed Acts—in 1696 against non-residence ; in 1734 and 1879 to provide for the erection and improvement of houses of residence for the clergy, and as to dilapidations ; in 1844 to regulate the respective rights of outgoing and incoming incumbents as to the temporalities ; and in 1880 for the appointment of Church Commissioners, who have powers somewhat similar to those of the Ecclesiastical Commissioners in England as to the formation of parochial districts formed out of parishes, and the establishment of rural deaneries, &c. By the same Act provision is made against the holding two benefices together, whether the benefices be both or one within the Island, and to enable the Bishop to appoint a curate to discharge the duties of an incumbent who is of unsound mind.

Acts of
Tynwald
relating to
Church and
Clergy.

It has never been considered to be the law of the Isle of Man that the contracts of joint-stock companies or corporations are affected by reason of a clergyman being a member, nor that there is any restraint, by the law of the Island, as to the services of Episcopally ordained clergymen, whether as incumbents or curates, wherever they may have been ordained, save only where the restraint is by Act of Parliament, such as exists under the Colonial Clergy Act, 1874 (37 & 38 Vic., c. 77), which extends to the Isle of Man. Acts have been frequently passed by the Insular Legislature with respect to parish and other churches, burial grounds, and the temporalities of the Bishop and clergy. Of the latter character is the Act for the Commutation of Tithes, passed in 1839, but there is this important difference between the Manx Act and that passed in England, the collection of the Tithe-rent charge is taken out of the hands of the clergy and managed by an agent appointed by the Crown, the Bishop, and the clergy.

suggestions. In my opinion there ought to be substantial uniformity in the law as to the Book of Common Prayer in England and the Isle of Man. At present the law is in much confusion and uncertainty. Legislation on this subject ought to be by Act of Parliament, but within certain limits provision might be made for modifications suited to local circumstances.

But as to the tribunals for matters of ecclesiastical cognizance, and the practice and procedure in the Ecclesiastical Courts of the Island, there is no necessity for the action of Parliament. All such matters, and matters relating to the external affairs of the church, as the Established Church of the Island, ought to be left to the Insular Legislature. The removal of cases which come under the Public Worship Regulation Act, 1874, to be heard by the judge of the Provincial Court, in the first instance, might occasion great hardship and much unnecessary expense to suitors. There is no objection, of course, to an appeal to the Provincial Court, as at present.

J. GELL,
ATTORNEY-GENERAL FOR THE ISLE OF MAN.

Castletown, Isle of Man,
12th April, 1882.



I N D E X

COMPILED BY MR. LLEWELLYN S. KNEALE.

- ABBEY BARONY, 78; see "Baronies."
Acts of Tynwald; see "Laws."
Administration of estates, 44, 109.
Administrators; see "Executors."
Admiralty Court—
 appeal from, 44, 75, 76, 109, 258.
 jurisdiction of, 44, 75, 85, 108-9, 258.
 jury in, 44, and *note* 28; 109, 259.
 procedure in, 259.
Alienations, entry of, on the manorial roll, 73.
Appeal, traverse, and new trial; see "Traverse; 37, and *note* 17; 39, and *note* 20; 40, 43, and *note* 26; 44, 52, 60, 61, 75, 76, 80, 104, 105, 107, 108, 109, 112, 113, 114, 115, 129, 130, 133, 156, 258, 281-2.
 from Ecclesiastical Courts, 45, and *note* 32; 110.
 security for costs of, 39, and *note* 20; 104.
 time limited for, 37, and *note* 17; 39, and *note* 20.
Appellate Jurisdiction Act, 1867, 39, and *note* 20.
Appendix C., list of documents in, 65-9.
 Editor's—
 " church, Manx; see "Diocese of Sodor," &c.
 " diocese,
 " " imperial and insular legislation respecting it. Sir James Gell's paper on, 298.
 " " transfer of, to York. Text of Act of 33 Henry VIII., c. 31; *note* p. 300.
Archdeacon, 88.
 judicial duties of, 44, 109.
 official oath of, 30, 173, 174.
 right of, to a seat in Council, 4, 5, 59, 70, 88, 126, 147, 160, 277.

- Archdeacon's Court—
 appeal from, 45, and *note* 32; 110.
 jurisdiction of, 44, and *note* 29; 109.
- Archdeacon's Official—
 judicial duties of, 44, 109.
 " now exercised by Vicar-General, *note* 29.
 official oath of, 31, 165, 175, 176.
 right of, to a seat in Council, 4, 5, and *note* 1; 59, 70,
 88, 126, 147, 277.
- Arrest, action of, and procedure, 34, and *note* 11; 102, 128,
 137-8.
 foreigners formerly liable to, 34, and *note* 11; 137-8.
- Attorneys, 115.
- Attorney-General—
 appointment of, 53, 84.
 commission of, 198.
 duties of, 55, 71, 75, 85-6, 140.
 formerly sat in Manorial Courts, 41, 107.
 official oath of, 32, 179, 180.
 prosecutes in General Gaol Delivery, 47, 75.
 right of, to a seat in the Council, 4, 5, 59, 70, 95, 140,
 142, 206, 277.
- BANGOR and Sabal, 33, 78, 142, 268.
- Baronies, 33, and *note* 9; 77, 78, 142.
 courts for; see "Manorial Courts."
 ecclesiastical, 88-9.
 quarterlands in, number of, 268-9.
- Beggars, order against, 233.
- Bills; see "Laws."
- Bishop, 88.
 appointment of, 53.
 judicial duties of, 44, 109.
 official oath of, 30, 164, 171, 172.
 right of, to a seat in Council, 4, 5, 22, *note*; 59, 70,
 88, 95, 96, 126, 147, 160, 167, 206, 277, 279.
- Bishop Wilson—
 dispute with Governor Horne, 217, 220, 221.
- Bishopric, patronage of, 2, 84, 95.
 powers of Manx Legislature over; *note* 7.
- Breast Laws, 42, 86, 90, 107.
- CENSUS in 1726, 284.
 " 1757, 285.

Census in 1784, 286.

 ,, 1792, 289.

Chancery Court—

 appeal from, 37, and *note* 17; 39, and *note* 20; 129.

 common action in, 34, and *note* 11; 128.

 earliest record of proceedings in, 150.

 execution of decrees of, 76, 103, 129.

 issue from, to Deemster and jury, 35, and *note* 13; 102.

 judges of, 34, 72, 102, 127, 206.

 jurisdiction of, 34, and *note* 11; 35, 39, and *note* 20; 49, and *note* 37; 102, 128, 129.

 pleadings in, 35, and *note* 12; 102, 128.

 power to regulate proceedings of, 34, and *note* 10.

 procedure in, 34, 128, 260.

 sittings of, 35, and *note* 14; 103.

 transmission of causes from, 34, 35, and *note* 13; 102, 128.

Chaplain, Lord's commission to, 243.

Church, Manx, position of; see "Diocese."

Clergy, 88, 89.

 dispute of, with Keys, 92.

 presence of, at Tynwald Court, 89.

Clerk of the Rolls—

 administers oath to Keys, 8.

 appointment of, 53, 84.

 commission of, 201, 242.

 custodian of records, 54, 73, 79, 85, 114, 130, 141.

 ,, of verdicts, 38, and *note* 19; 50.

 duties of, in Chancery and Exchequer Courts, 35, 128, 141.

 formerly sat in Manorial Courts, 41, 77, 78.

 general duties of, 54, 79, 85, 129, 139, 141.

 official oath of, 32, 182, 184.

 right of, to a seat in Council, 4, 5, 59, 60, 70, 95, 139, 142, 206, 277.

Collector; see "Water-Bailiff."

 commission of, 202.

 right of, to a seat in Council, 4, 5, 53, 54, 84, 142.

Commissions of—

 Attorney-General, 198.

 Chaplain at Castletown, 243.

 Clerk of the Rolls, 201, 242.

 Collector, 202.

 Comptroller, 201, 242.

 Constable and Captain of garrison, 244.

Commissions of (*continued*)—

- Deemster, 196, 197.
- Governor, 194.
- Major-General, 204.
- Receiver-General, 199.
- Steward of Abbey Lands, 248.
 - , of Demesnes, 246.
- Water-Bailiff, 202.

Commission of Enquiry of 1791, object of, &c., ix., 1.

Common Law Courts—

- appeal from, 37, and *note* 17 ; 39, and *note* 20 ; 40, 79, 104-5, 130.
- judges of, 37, and *note* 18 ; 73, 103.
- judgments of, how enforced, 111 ; see "Judgment."
- jurisdiction of, 38, 40, 42, and *note* 24 ; 73, 74, 104, 105, 130, 133.
- jury in, 38, and *note* 19 ; 73, 104, 110, 130.
- oldest record of proceedings in, 150.
- procedure in, 38, and *note* 19 ; 104, 130, 131.
- where and when held, 37, and *note* 18 ; 73, 79, 103, 115.

Comptroller—

- appointment of, 53, 84.
- commission of, 201, 242.
- duties of, 41, 54, 71, 85, 95, 139.
- formerly sat in Manorial Courts, 41, 77, 78, 106.
- office of, ceased, 140.
- official oath of, 32, 182.
- right of, to a seat in Council, 4, 5, 59, 60, 70, 139, 142.

Consistorial Courts ; see "Ecclesiastical Courts."

Constable, Chief, duties of, 260.

Constitution, 3, 82, 273.

- Busk, Sir Wadsworth, Attorney-General, his letter on, 81 to 98.
- " " letter of, on the courts, magistrates, &c., 99 to 124.
- " " confirmed by Clerk of the Rolls, 125.

Moore, Deemster, upon the, 70.

" " his examination on, 126.

Quayle, John, Clerk of the Rolls, his examination on, 139 to 149.

Shaw, Governor, letter of, to commissioners upon, 272 to 283.

Constitution (*continued*)—

Taubman, John, Speaker of the Keys, examination on, 151.

unaffected by Act of Revestment, 94.

Contempts, 45, and *note* 31; 52, and *note* 42; 76, 110.

how enforced, 51, 56, 260.

of Tynwald Court or Keys, 154, and *note* 64.

Conveyances; see "Deeds."

Coroner—

duties of, 46, 48, 50, and *note* 39; 52, 55-6, 76, 77, 87, 101, 104, 108, 111, 112, 141, 144, 259, 262.

formerly held inquests, 108.

number of, 262.

sworn in at Tynwald Court, 72.

Council—

duties of, 6, 25, 106, 147.

„ in framing of laws, 19, 20, 72, 143, 153, 154.

judicial duties of, 36, 45, 74, 126, 280.

members of, 4, 5, and *note* 1; 26, 58-9, 60, and *note* 53; 70, 72, 86, 88, 93, 95, 126, 139, 140, 142, 147, 160, 167, 206, 258, 277.

official oath of members of; see "Oaths."

petition of ecclesiastics to be admitted to, 160.

precepts from Governor summoning, 211, 212.

protest of Attorney-General against members, 210, 279.

quorum of, in legislative business, 21, 93, 142, 143, 206.

second legislative branch, 4, 70, 72, 91, 93, 142, 206, 274, 277, and *note*.

Courts—

civil, 102.

criminal, 101, 103.

enforcement of judgments of; see "Judgment."

pleadings in, 54, 85, 128; see "Pleadings."

procedure in, 34, 35, 38, 45, 49, 50, 51, 110, 115, 259.

unaffected by Act of Revestment, 60, 114.

Courts Baron, 60, 114.

business of, 41, *note* 22; 77, 78, 105-6, 133.

judges of, 40, and *note* 21; 77, 78.

jury or quest in, 41, 114.

Criminal Cases—

pardon in, 75, 101.

procedure in, 52, and *note* 44; 112.

Crown; see "Sovereign."

Courtesy, tenant by the, 136, and *note* 59.

DEBTS—

against deceadants' estates, 44.
 liability of land for, 135, *note* 57.
 recovery of, 61, 75, 109.

Deeds—

attestation of, 106, 114, 130.
 confirmation of, 73, 106, 130.
 evidence of, 74.
 publication in Court, 114.
 registration and recording of, 73, 79, 106, 121, 130, 135.

Deemster—

appeals from, 43, and *note* 26; 76, 108, 133.
 " from High-Bailiffs to, 61, 115.
 appointment of, 53, 84.
 attestation of deeds before, 73, 106, 114.
 commission of, 196, 197.
 consent to laws, 72, 93, 206.
 declaration of law by, 55, 86, 88, 90, 93.
 duties of, in Chancery Court, 34, 72, 102, 128, 206.
 " in Common Law Court, 37, and *note* 18; 38,
 and *note* 19; 73, 104, 130, 206.
 " in Courts Baron, 77, 78.
 " in Deemster's Court, 42, 75, 107, 132.
 " in Exchequer Court, 36, 72.
 " in General Gaol Delivery, 45, 47, 74, 75, 101,
 112, 206.
 " in Manerial Courts, 41, 105, 106.
 " general, 47, 48, 55, 86-7, 105, 149.
 enforcement of judgments of, 52, and *note* 43.
 issue to, and jury, 35, and *note* 13.
 jurisdiction and powers of, 39, and *note* 20; 42, 43, 46,
 49, 50, and *note* 38; 52, 56, 61, 107, 108, 111, 127,
 132.
 number of, 55, and *note* 49; 60, 71, and *note* 55; 95,
 126.
 official oath of, 32, 188, 189.
 right of, to a seat in Council, 4, 5, 59, 70, 87, 94, 95,
 142, 206, 277.
 salary of, 118, 127.

Deemster's Court—

appeal from; see "Deemster."
 judges of, 42, 75, 107.
 jurisdiction of, 42, and *note* 24; 43, 44, and *note* 27;
 50, and *note* 38; 52, 55, 75, 107, 132.

- Deemster's Court (*continued*)—
 jury in, 42-3, and *note* 25; 107, 108, 132.
 procedure of, 42, 107.
 where held, 133.
- Descent of lands, 135, 136.
- Diocese of Sodor and Man, 21, and *note* 7.
 ,, imperial and insular legislation affecting, Sir James Gell's memorandum on, 293.
 ,, transfer of, to York. Text of Act 33 Henry VIII., c. 31, *note* p. 300.
- Dower, and how barred, 135; and *note* 58.
- ECCLESIASTICAL BENEFICES, patronage of, 84.
- Ecclesiastical Courts—
 appeal from, 45, and *note* 32; 110.
 contempts of, 45, and *note* 31; 109.
 execution of judgments of, 52, and *note* 48; 110, 111.
 judges of, 44, 109, 110.
 jurisdiction of, 44, 26 *notes*; 109.
 proceedings in, 110.
 registry, 88.
 Sir James Gell's memorandum on; see "Diocese."
- Ecclesiastical personages, in Council, 4, 96, 142, 144, 277, 279.
 petition of, to be admitted to Council, 160.
 protest against, 210, 279.
- Estates of intestates, distribution of, 136.
- Exchequer Book, extracts from, 213, 215, 217, 220, 221, 232.
- Exchequer Courts—
 appeal from, 37, and *note* 17; 39, and *note* 20; 129.
 earliest record of proceedings in, 150.
 judges of, 35-6, 72, 103, 129.
 jurisdiction of, 36, and *note* 15; 103, 129.
 jury in, 36, and *note* 16; 103, 129.
 procedure in, 36, 103, 150.
- Execution; see "Judgment."
- Executive Council; see "Staff of Government."
- Executors—
 suits against, 44, 109.
- FELON JURY, 46, and *note* 34; 112.
- Felony, 43.
 distinguished from misdemeanor, 46, 112, 131.
- Fodder jury—
 duties of, 50, and *note* 39.

Foreigners—

liability of, to arrest, 34, and *note* 11; 187-8.
naturalization of, 9.

GARRISONS—

commission of captain of, 244.
official oath of steward of, 254.
steward of, 140.

General Gaol Delivery, Court of—

challenge of jurors in, 47, 71, 74, 75, 101.
execution of judgments of, 46, 112.
judges of, 45, and *note* 33; 74, 101.
jury in, 45, 46-7, 74, 101, 131.
mode of prosecution in, 45, 46, and *note* 34; 47, 74, 101,
112.
procedure in, 75, 101, 112.
sentence in, 46, 47, 75, 101, 131.
supreme criminal court, 45, 101, 131.
verdict in, 46-7.
where held, 47, 61, 73, 74, 101, 105, 131.

Government, Insular; see "Isle of Man."

Act of Revestment, how it affected the, 94.
description of, 2, 3, and *note* 7.
officials who compose, 4-5, 71, 84, 126, 142, 277; and
see "Governor and Council."

Governor—

appointed military staff, 57, 84.
appointment of, 84.
approved of members elect of Keys, 7, 8, 90, 143, 151,
276.
„ of Speaker, 18, 144, 152.
commission of, 194.
death of, effect of on authority of officers, 234-6.
duties, general, of, 70, 72, 84, 100, 147, 206.
„ judicial, of, 25, 33, 34, 35-6, 37, 39, *note* 20; 40,
45, 46, 52, 72, 74, 76, 84, 100, 102, 103, 105, 129,
147, 206.
issues writs of contempt for non-compliance with judges'
orders, 45, and *note* 31; 51, 56, 77, 87, 110.
legislative rights of, 4, 70, 72, 91, 93, 126, 142, 154,
206, 274, 277, and *note*.
makes temporary official appointments, 53, and *note* 47;
84.
official oath of, 166, 251, 252, 253.

Governor (*continued*)—

power to reprieve, 75.

“ to prorogue Keys, 9, 19, and *note* 5; 144.

powers of, 11, 33, 34, 53, and *note* 46; 84, 100, 111, 137, 144.

presence at Tynwald Court, 142.

representative of Lord Proprietor, 33, 53, 70, 100.

resisted execution of criminals, 47, 101.

salary of, 118.

summons of, to Council and Keys, and Tynwald Courts, 6, 9, 10, and *note* 5; 20, 84, 126, 146, 153, 154, 208.

Governor and Council; see also “Council” and “Staff of Government.”

legislative proceedings of, 19, 20, 76, 126, 143, 146, 150, 154.

proceedings of, 212, 214, 217, 219, 220, 221, 224, 232.

second legislative branch, 4, 70, 72, 91, 93, 142, 206, 274, 277, and *note*.

Grand jury, 112.**Great Inquest—**

abolished, 61, and *note* 54; 79, 115.

duties of, 48, and *note* 36; 105, 133, 149.

number of jurors on, 48, 149.

presentation of nuisances by, 56, 73, 113.

revived, *note* 36.

traverse from verdicts of, 39, and *note* 20.

Guardians—

appointment of, 137.

HABEAS CORPUS, writ of; see “Mandamus” and “Writ.”**High-Bailiffs—**

attestation of deeds before, 114.

duties of, 61, 79, 115.

superintendents of towns, 57, and *note* 52; 79, 115.

High-Bailiff’s Court—

appeal from, 61, 115.

enforcement of judgments of, 52, and *note* 43.

jurisdiction of, 57, and *note* 52; 61, 79, 115.

Horne, Governor, dispute with Bishop Wilson, 217, 220, 221.

INDICTMENTS, 45, 112.**Infants—**

when they attain their majority, 137.

Intacks, 53, and *note* 46, 267.

Intestacy, and distribution of intestates' estates, 136.

Isle of Man—

ancient kings, government, and legislature of, &c., 2-3,

note 7.

division into baronies, quarterlands, &c., 267-9.

“ into parishes and sheadings, 33, and *note 8*; 87,
127, 260, 262.

governed by its own laws, 3, 25-6, and *note 7*; 70, 274.

government of, prior to 1407, 2, 83, 273.

government of, subsequent to 1407, 3, 94.

grant to, and condition under Stanleys, 2, 3, 22, *notes*;
83.

jurisdiction seawards, 44, 109, 241.

population of, 284, 285, 286, 287, 290.

power and status of its legislature—opinions of Attorney-General of England and others upon, *note 7.*

service of process below full sea, 240-1.

JOINT ESTATES—

partition of, 49, and *note 37*; 106.

Judgments—

how executed, 46, 52, and *note 43*; 53, 56, 76, 77, 87,
103, 110, 111, 112, 129, 260, 262.

Judicial proceedings—

ancient irregularity of, 100, 111.

Jury—

appeal from verdict of; see “Traverse.”

felon, 46, and *note 34*; 112.

fodder, 50, and *note 39*.

how summoned, 46.

in Admiralty Court, 44, and *note 28*; 109, 259.

in Chancery “, 45, and *note 13*; 102.

in Common Law “, 38, and *note 19*; 73, 104, 110, 120.

in Courts Baron 41, 114.

in Deemster’s “, 42, 43, and *note 25*; 107, 108, 132.

in Exchequer “, 36, and *note 16*; 103, 129.

in General Gaol Delivery, 45-6-7, 74, 101, 131.

in Maneriel Court, 41, 114.

number of, and where from, 38, and *note 19*; 39, and
note 20; 47, and *note 35*, 49, 50, 112.

of enquiry, 49, 108, 132.

traverse; see “Traverse.”

trespass; see “Trespass Jury.”

venue, 38, and *note 19*.

verdict of, 38, and *note 19*.

KEYS, House of

- abolished, 39, and *notes* 20 and 23.
committees of, procedure before, under Tynwald Procedure Act, 1876; 164, and *note* 64.
contempts of, now punishable under Tynwald Proceedings Act, 1876; 154, and *note* 64.
declaration of law by, 55, 86, 93.
dissolution and prorogation of, by Governor, 9, 19, and *note* 5; 144.
formerly sat in General Gaol Delivery, 45, and *note* 33; 74, 101.
judicial powers of, 26, 39, and *note* 20; 40, 50, 52, 55, 90, 94, 101, 113, 156, 206.
jurisdiction of, original, in certain matters, 157.
libels on, or on members of, 155, and *note* 64.
meetings of, by summons from Governor or Lord Proprietor, 6, 9, 10, and *note* 5, 20, 144, 146, 153.
members of, election, ancient and modern, of, 7, and *note* 2; 8, 72, 90, 107, 143, 151, 276.
" number of, 4, 6, 7, 22, and *note* 7; 90, 143, 151, 274.
" official oath of, 8, 169.
" qualification of, 8, 9, and *note* 4; 143, 152.
" " of voters in election of, 7, and *note* 3.
" quorum of, 20, 21, 73, 93, 94, 145, 153, 206, 276.
" resignation of, 8, 276.
" vacating seats of, 8, 143, 144, 151, 276.
powers of, 9, 10, and *note* 5; 20, 76, 90, 144, 153.
" in Tynwald Court, 10, and *note* 5; 91.
privileges of, 17, 18, 19, and *note* 6; 134, 144, 155.
" ancient, preserved by Election Act, 1866, and *note* 5.
" refusal to discuss with Governor and Council questions affecting, 14.
" to adjourn at will, 18, and *note* 5.
" to depart from Tynwald Court on motion of member, 10, and *note* 5.
" to refuse to attend Tynwald without summons, 17, and *note* 5.
procedure of, in legislation, 9, 10, and *note* 5, 19, 20, 126, 145, 147, 152-4, 206, 239.
speaker of, election of, 18, 144, 152.

King in Council—

appeal to, 37, and *note* 17; 39, and *note* 20; 40, 43, and *note* 26; 52, 60, 76, 80, 112, 113, 115, 129, 132, 156, 281.

Kings of Man, 2, 22 *note*.**LAND—**

acquired by descent, 135, 136.

devisability of, 135, and *note* 57; 136.

liability of, for debts, 135, and *note* 57; see “Debts.”

Larceny, 47, 131.**Law, how ascertained in case of doubt, 55, 86, 88, 90, 93.****Laws, Statutes, or Acts of Tynwald—**

always enacted by Insular powers, 3, 25-6, and *note* 7; 70, 274.

during fifteenth and sixteenth centuries, 3, 82, 91.

earliest, 2, 82.

influence of people in establishing, 90.

mode of enacting, 3, 9, 19, 20, 72, 93, 126, 145, 146, 153, 154, 206, 207, 208.

originals deposited in Rolls Office, 141.

power of Insular Legislature as to, *note* 7.

private bill cases, costs in, 155, and *note* 64.

promulgation of, 20, 58, 72, 93, 146, 157.

sanction of Governor, Council and Keys, 93, 126, 154, 206.

„ Lord Proprietor to, 5, 20, 58, 72, 93, 126, 146, 154.

„ Sovereign, 58, 93, 97, 146, 208.

Legacies, suits respecting, 44, 109.**Legislature—**

acts of, enumeration of many, *note* 7.

authority of, vested in three branches, 3, 4, 22 *notes*; 70, 72, 91, 94, 142, 274, 277, and *note*.

conferences between branches of, 145.

constitution of; see “Constitution.”

document respecting, 206-8.

power of, 16, 37, and *note* 16; 42, 92, 274-5.

powers of, over Insular matters, *note* 7.

private bill cases, rules as to costs in, 155, and *note* 64.

proceedings of, between 1583 and 1774, 224.

***Liber Assedationis*, 149.**

„ *Placitorum*, 47, 102.

„ *Seaccarius*, 103.

„ *Vastarum*, 149.

- Licence, granting of, for public houses, 262.
Lieutenant-Governor, 118; see "Governor."
 official oath of, 253.
 powers of, 277, and *note*.
Limitation of suits in Ecclesiastical Courts, 44, and *note* 30 ;
 109.
 of appeals; see "Appeal."
Lockmen, 56, 87.
Lord Proprietor—
 appeals to, 37, and *note* 17 ; 43, 44, 52, 75, 76, 80, 113,
 114, 129, 156.
 appointed officials and judges, 53, 57, 84.
 duties of, 47, 57.
 head legislative power, 4, 70, 91, 93, 142.
 power to pardon criminals, 73, 131.
 powers of, 4, 6, 83, 84, 90, 100, 134.
 ,, now vested in the Crown of England, 58, 94,
 95, 113, 114.
 represented by Governor, 33, 53, 73, 100.
 sanction of, to laws, 5, 20, 58, 72, 93, 126, 146, 154.
Lord's Council; see "Staff of Government."

- MAGISTRATES, malpractice of, 157.
Major-General—
 appointment and duties of, 57.
 commission of, 204.
Mandamus and Habeas Corpus, writs of, from superior courts
 of England, 136, and *note* 61 ; 227.
 Crawford's and Brown's cases, *note* 61 ; see "Writ."
Manorial Courts; see "Courts Baron."
 business of, as to suits therein, transferred to Common
 Law Courts, 133.
 judges of, and proceedings in, 105-6.
 jurisdiction of, 41, and *note* 22 ; 77, 78, 106, 133.
 jury in, 41, 114.
 reservation of, by Act of Revestment, 60, 114.
Military force, 53, 57, 87, 134.
Misdemeanor, distinguished from felony, 46, 112, 131.
Moars, duties of, 49, and *note* 37 ; 52, and *note* 43 ; 56, and
 note 51 ; 87, 106, 111.
Mortgages—
 of real estate, 135.
 recording of, 74.

NATIVE—

liability of, to arrest, 34, and *note* 11.

privileges of, 137.

Naturalization of foreigners, 9.

New trial; see "Traverse" and "Appeal."

Nuisances—

presented by Great Inquest, 56, 73, 113.

removal of, 115, 134.

OATHS, official, of Archdeacon, 30, 165, 173, 174.

" Archdeacon's official, 34, 175, 176.

" Assistants of deputy searcher, 249.

" Attorney-General, 32, 179, 180.

" Bishop, 30, 164, 171, 172.

" Clerk of the Rolls, 32, 182, 184.

" Comptroller, 32, 182.

" Deemster, 32, 188, 189.

" Governor, 166, 251-3.

" Keys, 169.

" Lieut.-Governor, 253.

" Receiver-General, 166, 185, 187.

" Steward of Abbey Lands, 256.

" " of Garrison, 254.

" Vicar-General, 31, 165, 177, 178.

" Water-Bailiff, 32, 190-3.

Officials, appointment of, 53, 84.

principal, 84.

salaries formerly insufficient, 118.

Orders of Governor and Council, collection of, 224-231.**PARDON, power of, in criminal cases, 75, 101.**

Parishes, division of Island into, 33, and *note* 8; 87, 127, 260, 262.

Partition of joint estates, 49, and *note* 37; 106.

Pawn, 77.

Peel Castle, 2, 45.

People, condition of, 82, 99.

represented in legislature, 7, and *notes* 2 and 3; 92, 117.

Personal estate, devised by will, 186.

Pleadings and procedure in courts, 34, 35, and *note* 12; 38, 45, 49, 51, 52, and *notes* 43, 44; 54, 75, 85, 101, 102, 110, 111, 112, 115, 128, 259.

Police, 56, 133, 134.

Population, 284, 285, 286, 289.

- Prayer Book ; see "Diocese."
- Private bills before legislature, 155, and *note* 64.
- Probate ; see "Will."
- Process in civil causes, 51, 52, and *note* 42, 110.
 by whom served, 260, 262.
 execution of, 52, 111.
 service of, below full sea, 240-1.
- Purchased lands, 135, and *note* 58.
 liability of, for debt, &c., 135, and *note* 57.
- QUARTERLANDS—**
 number of, in each parish, 267.
 belonging to Baronies, 268 ; see "Baronies."
- Queen in Council ; see "King in Council."
- REAL PROPERTY—**
 liability of, for debt, 135, and *note* 57.
 devisability of, by will, 135, and *note* 57 ; 136.
- Receiver-General—
 appointment of, 53, 84.
 commission of, 199.
 duties of, 53, 54, 70, 85.
 official oath of, 32, 166, 185, 187.
 presence of at Manerial Courts, 41, 107.
 right of, to a seat in Council, 4, 5, 59, 60, 70, 95, 142, 277.
- Records, most ancient, 2, 83, 90, 141, 150.
 copy of most ancient record, 158.
 custody of, 54, 71, 79, 85, 141.
- Rehearing, 39, and *note* 20.
- Religion, 88, 89.
- Revestment, Act of,
 does not affect administration of justice, 60.
 " constitution or government, 21, and *notes* ; 94, 114, 156.
- object of, 58.
- SENESCHAL, 39, and *note* 20 ; 78.
- Serjeants, 52, 80.
- Setting Quest, 41, 114.
 number of jurors, duties of, &c., 49, and *note* 37 ; 56, and
 note 51 ; 73, 74, 106, 149.
- Sheadings, ancient and modern, division of Island into, 83,
 and *note* 8 ; 87, 127, 260, 262.

- Sheading Courts ; see "Manerial Courts."
- Sovereign of England—
 consent of, to laws, 58, 93, 97, 146, 208.
 powers of Lord Proprietors transferred to, 58, 94, 95, 118, 114.
 primary element of legislative authority, 4, 70, 93, 206, 274.
 writ of, extends to Island, 186, and *note* 61.
- Speaker of Keys—
 casting vote of, 206.
 duties of, 7, 8, 9, 151, 153, 276.
 election of, 18, 144, 152.
 privileges of, 19.
- Staff lands, 269.
- Staff of Government, or "Governor and Council."—
 a supreme court, 23, 33, 100.
 appeal from, 39, and *note* 20.
 appeals to, 43, and *note* 26 ; 44, 45, and *note* 32, 75, 76, 108, 109, 113, 132.
 duties of, 147.
 judges of, 25, 26, 33, 86, 126, 142, 280.
 jurisdiction of, 25, 33, 34, 86, 100, 147.
- Stanley family—
 grant of Island to, 2, 3, 24 *note* ; 82, 83.
 title of, 24 *note*.
- Statute ; see "Laws."—
 text of 33 Henry VIII., c. 31, *note* p. 300.
- Statute Book, 2, 3, 5, 21, 29, 83.
- Steward of Abbey Lands, 79.
 commission of, 248.
 official oath of, 256.
- Steward of Demesnes, &c.—
 commission of, 246.
- Steward of Garrisons ; see "Garrisons."
- Sumner, 52.
 duties of, 111.
- TENURE OF LANDS, 106.
- Towns—
 captains of, 56, 133-4.
 " duties of, 57.
 " duties of captains transferred to High-Bailiffs, 57, and *note* 52, 115.
 superintendence of, paving cleaning and lighting of, 57, and *note* 52 ; 79, 115.

- Traverse; see "Appeal."
from verdict of jury, 39, and *note* 20; 40, 41, 50, and
note 38; 76, 104, 107, 108, 130.
limitation of time for, 39, and *note* 20, 130.
number of jurors on traverse jury, 39, and *note* 20.
security for costs of, 39, and *note* 20; 104.
- Treasurer; see "Receiver-General."
- Trespass Jury—
appeal from verdict of, 50, and *note* 38.
number of jurors, 49.
procedure before, 19, 50, and *note* 38.
- Trial, new, 39, and *note* 20; see also "Appeal."
- Tynwald Court—
constitution of, 4, 58, 70, 72, 76, 84, 89, 92, 93, 142, 145.
contempts of, 154, and *note* 64.
convened by Governor, 72, 84, 154.
meets at Tynwald Hill, 20, 91, 146.
procedure in, 154, and *note* 64.
promulgation of laws at, 20, 72, 93, 146.
summons of Keys to, *note* 5.
Tynwald Proceedings Act, 1876, 154, and *note* 64.
- VERDICTS—
of juries recorded in Rolls Office, 38, and *note* 19; 50.
traverse of; see "Traverse."
- Vicar-General—
duties of, 44, 71, 88, 109.
official oath of, 31, 165, 177, 178.
right to a seat in Council, 4, 5, 59, 70, 88, 126, 147, 160,
167-8, 206, 277.
- WARRANT; see "Process."
- Wastes, enclosure of, 53, and *note* 46.
- Watch, desertion of, punishment for, 213.
- Water-Bailiff—
appointment of, 53, 84.
commission of, 202.
duties of, 44, 54, 71, 85, 110, 258.
judge of Admiralty Court, 43-4, 71, 75, 85.
office under Lord abated, 78.
official oath of, 32, 190, 192, 193.
right to a seat in Council, 4, 5, 59, 60, 70, 95, 142, 206,
258, 277.
- Wife, widow right, 135, and *note* 58.

Will—

appeal as to disputed, 45, and *note* 32.
attestation and execution of, &c., 136, and *note* 60.
determination of validity of, 44, 109.
nuncupative, 136.
of infant, 137, and *note* 62.
of lands, 135, and *note* 57; 136.
probate of, 136, 45, and *note* 32.

Wilson, Bishop, dispute with Governor Horne, 217, 220, 221.

Women, entitled to vote at election of Keys, 7, and *note* 3.

Writ—

ne exeat insulā, 34, and *note* 11, 128.
of *habeas corpus*, 136, and *note* 61.
of *mandamus*, 136, and *note* 61.
order against enforcement of, 227, 229.
prerogative, of Sovereign extends to Island, 136, and
note 61.



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WORKS SUGGESTED FOR PUBLICATION.

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